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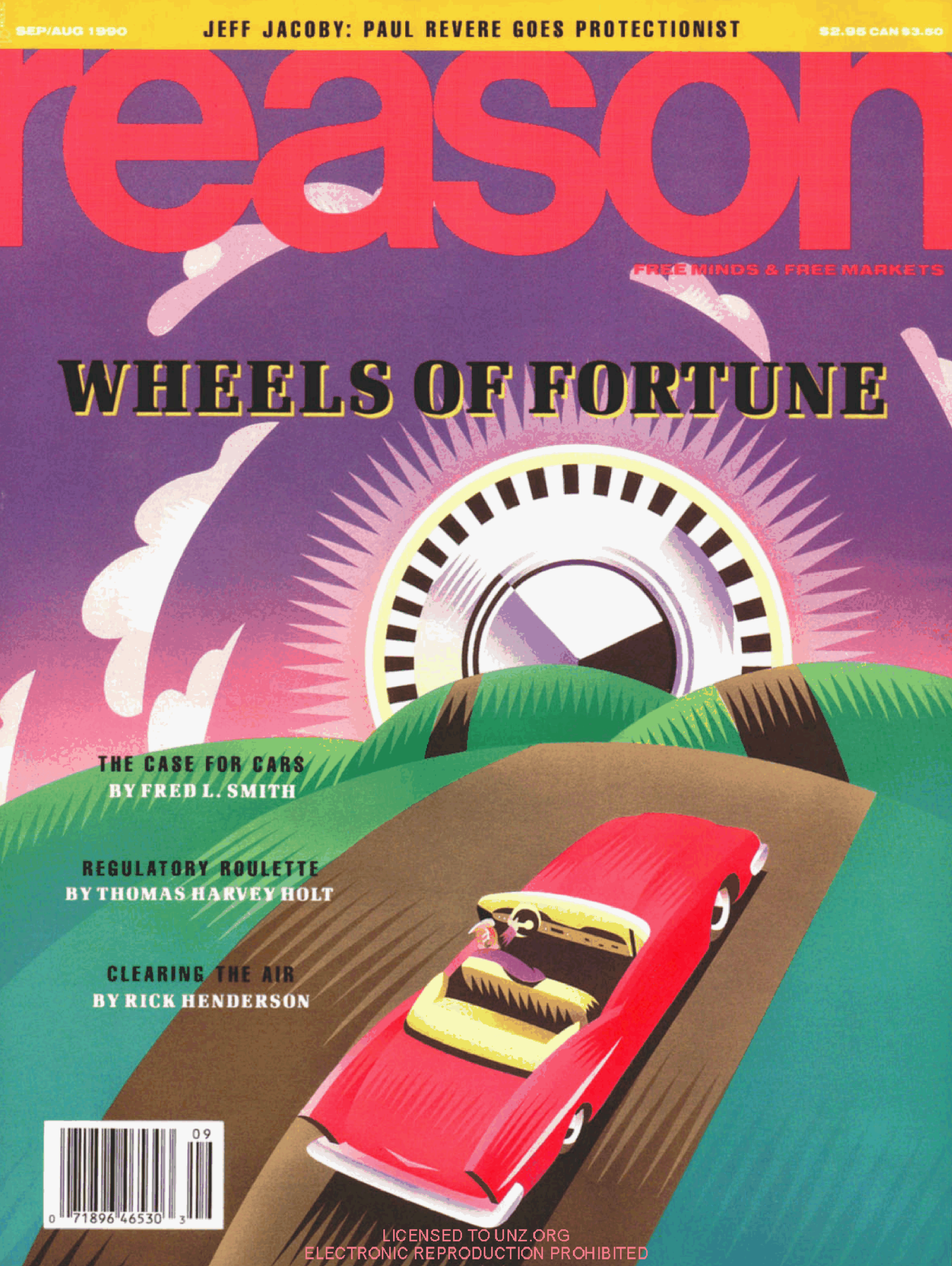

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Free Minds and Free Markets

August/September1990/Vol. 22, No. 4

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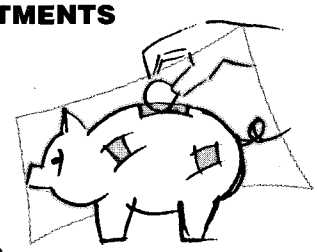

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DEMOCRACY BLUES

VIRGINIA I. POSTREL

Democracy has had a very good year. Citizens of country after country have lined up, often for hours and sometimes braving bullets, to cast ballots that changed their national lives.

Meanwhile, back in the U.S. of A., good-government types act like nagging parents, disappointed in their little American voter kids. Look at the good little Poles (or Nicaraguans, or Burmese), they say; *they* vote. Why can't you be more like them? We've given you every advantage—why are you so apathetic?

It's a good question. Americans like to think of themselves as the world's leading democrats, but, by the usual measures, we're none too pleased with our own democracy. Voter turnout is low and getting lower; around 40 percent is standard for a statewide primary. People intensely distrust the politicos who represent them. Given the chance—as on the California primary ballot—voters will support just about any "ethics" initiative that promises to control the people's supposed representatives.

Election-day America doesn't present a very pretty picture, especially compared to the edifying sight of all those Eastern Europeans flocking to the polls. But before we resort to the usual prescriptions for an ailing democracy—easy voter registration, tax-funded campaign financing, free airtime for candidates—we ought to contemplate what our real problem might be and what our democracy is supposed to be about.

One possibility is that the whole problem is imaginary. Americans don't vote because, unlike in Eastern Europe or Nicaragua or Peru, the stakes aren't very high. The country isn't fighting for its life or its freedom.

There may be real differences between candidates, but they're often subtle. More important, any successful candidate's individual power is modest. Hernando de Soto has said of Peru, "We elect a dictator every five years." When the president's powers are unlimited and unchecked, it is vitally important who gets elected.

American politicians do wield power but rarely as individuals. And the constitutional system deliberately constricts the power of the majority's representatives, even as a group. Ours is a system designed to protect electoral losers. It errs on the side of not getting things done.

Free-market advocates here often look longingly at Margaret Thatcher's Britain and rail against Congress for blocking Reagan's initiatives, or against Reagan for not pushing hard enough. They forget, however, that the same clotted politics that made the Reagan Revolution less than revolutionary also blocked once-popular socialist measures, from guaranteed minimum incomes to nationalized railroads and utilities. Hence, the frequent declaration that "the United States is the only Western nation that doesn't have..." Fill in the blank: national health insurance, mandatory vacation or maternity leave, a national family policy, etc. Reagan did less than Thatcher, but he also had less damage to undo.

This isn't to say, of course, that U.S. governments—federal, state, or local—can't get large or intrusive. It just requires more unanimity. That's why it's so scary when populace and politicians get whipped into a frenzy and all take off after the same problem, whether Communists in the State Department, drugs in the streets, or greenhouse gases in the air. When a system built on checks and balances overrides those protections, there's no telling what it will do. And once government does expand into new territories, the procedural safeguards make it nearly impossible to return to the old boundaries.

In his essay on political factions in *The Federalist Papers,* James Madison wrote of geographical divisions, "A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it." Over 200 years, we've managed to adopt most of Madison's hypothetical wicked projects, usually because political passions created supermajorities that overrode constitutional checks.

One of those passions is for democracy itself, rarely conceived as a Madisonian republic with lots of steps between the voter and the law. "The will of the people"—of the majority—becomes, in the popular imagination, justification enough for nearly any law.

That is why there is at least one place where Americans can elect a dictator. It is California, where ballot initiatives have all but replaced legislation. This Progressive direct democracy is a great system for winners—we tax cutters all love Prop. 13—but offers almost no protection for losers. For the sclerotic process of legislative deliberation and dealmaking, California has substituted a streamlined, modern system. And if you think that all *democracy* means is majority rule, it is a more democratic process as well.

But living and voting in California is a great way to gain appreciation for sclerotic government. Ballot initiatives have a nasty habit of setting up offices exempt from procedural safeguards: Californians have voted themselves an auto-

insurance dictator; they seem prepared to install an environmental dictator as well. The only limit on such officials' power is aggressive intervention by the courts.

We don't have democracy for its own sake; we have it to protect ourselves from the tyranny of minorities. Liberal, or constitutional, democracy goes a step further. By limiting what kinds of laws the majority can make, and by interposing often-complex procedures between the public and those laws, it protects us from the tyranny of the majority.

It also guards us—imperfectly, to be sure—from our own ignorance. Ballot initiatives frequently lead Californians to vote on issues they know virtually nothing about—complicated reapportionment measures, for example.

Representative government may be subject to procedural inefficiencies, elitism, or potential corruption. But lawmakers do have a chance to learn about pending legislation. And legislative agendas aren't rigidly controlled the way ballot initiatives are. Once specified, an initiative can't be changed. But bills are easily amended, which dilutes the power of their drafters.

The legislative process also introduces a factor sorely missed in direct democracy: time. It usually takes a long time for a bill to become law—time for people to do research, to think, to change their minds. When it doesn't, as with the flag-burning prohibition, we can usually be certain that demagoguery is afoot.

Nagging people to vote without knowledge or deliberation trivializes political decisionmaking. That may be why citizens aren't especially likely to vote when important, but extremely complex, measures are on the ballot. They simply can't be sure what effect their votes might have. The initiative process also abrogates one of the most compelling features of *liberal* democracy—the notion that government ought not intrude so much into daily life that ordinary citizens must become experts or senators or judges.

Italian voters recently cast more than 90 percent of their ballots for three referendums. The measures failed—because fewer than 50 percent of registered voters turned out, thereby nullifying the election. Many people stayed home to block the referendums, which would have restricted hunting and pesticides.

Similar laws "are already under discussion in the Parliament," reports the *New York Times*. "But given the need for broad consensus in a country where no single party can get a legislative majority, the results are likely to be watered-down versions of what might have been possible had the referendums passed." James Madison would approve. ◼

THE FOURTH 'R'

JACOB SULLUM

The "Activities" section of the typical high school yearbook may never be the same. Toward the beginning will be the Communist Youth League; a few pages after the Glee Club, you'll find a Hare Krishna group; the Ku Klux Klan will appear in between Junior Achievement and the Latin Club.

Or so the critics of a recent Supreme Court decision imagine. In June, the Court ruled that federal law requires a public high school to permit student religious groups to meet on campus if it allows other kinds of extracurricular clubs to do so. In *Board of Education* v. *Mergens*, a group of Omaha students challenged their school's refusal to authorize a Christian Club. The school, they said, had violated the 1984 Equal Access Act, which prohibits a public secondary school with a "limited open forum" from discriminating against student groups on the basis of their religious, political, or philosophical views.

"Undoubtedly, the evangelicals will try to put one of these clubs into every school in the country, and they have made clear the purpose will be to spread the good news of the Gospel," said Marc Stern, an American Jewish Congress attorney who represented the school board in *Mergens*. "This decision will also allow Louis Farrakhan and David Duke to organize groups at school."

Stern had argued that allowing the Christian Club would violate the First Amendment's Establishment Clause by placing a government stamp of approval on religion. In fact, however, the policy mandated by the Equal Access Act is explicitly one of neutrality, not endorsement. It does not require special treatment of religious clubs—merely the same treatment accorded other student groups.

Still—like Justice John Paul Stevens, the lone dissenter in the case—not a few parents will be troubled by the specter of religious cults, hate groups, and radical political movements setting up branches in high schools throughout the nation. It may be true, as Justice Sandra Day O'Connor wrote for the majority, that "secondary school students are mature enough...to understand that a school does not endorse or support student speech that it merely permits on a nondiscriminatory basis." But teenagers are still more susceptible to peer pressure and more vulnerable to offense than adults are.

These facts are particularly troubling in the context of a government-run school. As Justice Thurgood Marshall noted in his concurring opinion: "When the government, through mandatory attendance laws, brings students together in a highly controlled environment every day for the better part of their waking hours and regulates virtually every aspect of their existence during that time, we should not be so quick to dismiss the problem of peer pressure as if the school environment had nothing to do with creating or fostering it."

Parents may value tolerance and the free exchange of ideas yet balk at sending their children to a school with, say, a thriving chapter of Satanist Neo-Nazi Skinheads for a Cleaner Planet. On the other hand, parents might like their children to have the option of praying with fellow students after school. Such questions are properly left for parents to decide.

So those who object to the new policy for extracurricular activities have a point.

But the problem they sense is not unique to this situation; it is inherent in state schooling. Parents who cannot afford to pay private tuition as well as the taxes that support the public-school system have little or no choice in educating their children. They cannot select a school with good extracurricular clubs or reject a school with bad ones. More important, they have no effective control over any aspect of the school environment, including curriculum, instruction methods, scheduling, and discipline.

Indeed, it seems strange that people who would allow government to decide every important issue of educational policy—what guiding philosophy to adopt, what textbooks to use, how to treat sex, whether to teach "creation science"—object when Congress and the Supreme Court change the rules for extracurricular clubs. This is like complaining about the food on a flight that's headed for the wrong destination.

Sowing the Seeds of Free Enterprise: The Politics of U.S. Economic Aid in Africa

by Richard Sincere

Recent events in Eastern Europe and Central America have reignited the debate on foreign aid. Does U.S. foreign aid help developing countries build economic prosperity? Or does it just entrench the forces of socialism?

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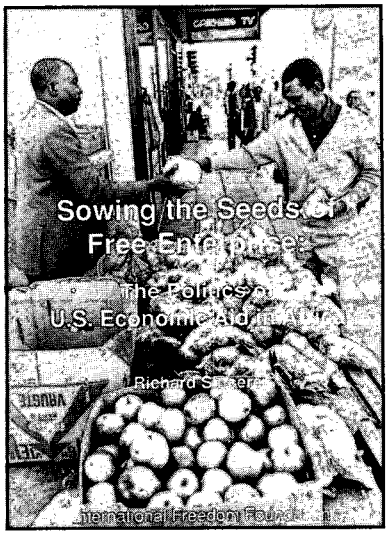

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SUICIDE SOLUTION

CHARLES OLIVER

Janet Adkins wanted only to die with dignity. To that end she traveled from her home in Portland, Oregon, to Holly, Michigan. There she met with Dr. Jack Kevorkian, inventor of a controversial suicide machine that allows a person to give herself a lethal injection of potassium chloride.

Janet Adkins was in the early stages of Alzheimer's Disease, an untreatable illness that slowly but inevitably takes one's memories, and eventually, one's life. Adkins saw her future, and she refused to accept it. So she decided to take her own life.

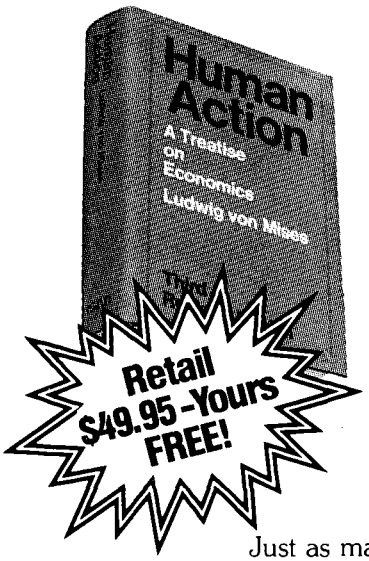
While Adkins had already begun to experience some memory loss, her family agrees that she was still rational. "It was not a desperate thing or a depressed situation," her son Neil told the *New York Times*. "She was the one that helped us through it."

Kevorkian's machine, and Adkins's use of it, have forced the medical community to rethink its stance on euthanasia. Passive euthanasia, the withholding of life-sustaining care, when requested by a patient or the patient's guardian, has become accepted practice. But the medical establishment still refuses to condone active euthanasia. (See "Don't Block the Exit," Apr.)

Kevorkian's machine helps eliminate one objection to active euthanasia: the fear of a rogue doctor abusing his power to end lives. Adkins not only verbally requested the procedure, she pushed the button that sent the poison into her body.

But there still remains a more fundamental objection. Doctors are supposed to save lives, the argument goes, so they shouldn't end them. Some doctors feel that active euthanasia violates the Hippocratic Oath's directive to comfort the suffering, because it leaves the physician with no patient left to comfort.

But while that interpretation observes



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Mises has nothing but scorn for the phony "compassion" of the Marxians and Keynesians — because he sees how their theories actually breed suffering. One by one, he sweeps away the dangerous fallacies of liberalism and socialism.

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the letter of the Hippocratic Oath, it violates its spirit, and doctors other than Kevorkian seem to realize this. "It's not uncommon for physicians of cancer patients to say, 'Here's some medication, and make sure you don't take more than 22 pills because 22 pills will kill you,' " Judith W. Ross, a professor of medical ethics at UCLA, says in a *Los Angeles Times* article.

Clearly there is disagreement within the medical community, and there needs to be more discussion of the issue to clarify the role of physicians. But forcibly keeping doctors from aiding patients who wish to die (as the state of Michigan wishes to do) violates the rights of the physician and the patient.

Our nation was founded upon the ideal that individuals should control their own lives. The ultimate expression of this right is the choice to end one's life. Most of us will never have to make that choice. But some of us will find ourselves stricken with disease that threatens to rob us of our dignity or leave us in tremendous pain. No one should force us to live, against our will, under those conditions. And if a doctor's sense of compassion compels him to, then he should be free to help with that death.

In a poll taken before Adkins's death, the *Los Angeles Times* found that 55 percent of Americans think a person has a right to commit suicide if suffering from fatal illness or great pain with no hope of improvement. And one third can imagine themselves taking the life of a loved one suffering from a terminal illness.

As Ron Adkins told reporters after his wife's death, "It's not a matter of how long you live, but the quality of life you live. It was her life and her decision, and she chose it." ◼

THE MISHA AND BORIS SHOW

RICK HENDERSON

The good news from the recent summit: Mikhail Gorbachev is a human being. (He pitches horseshoes! He drives a golf cart! He likes George Bush!) The bad news: American reporters still haven't learned that the Soviet president is different from a Western head of state.

Most folks inside the Beltway (in both the government and the media) decided some time ago that Gorbachev was a nice guy and we should do all we could to keep him around. Gorbo fans credit him with a coherent, sweeping vision that would bring the Soviet Union into the 20th century. These pundits and policymakers conveniently forget that early *perestroika* consisted entirely of hard work and no drinking. But the U.S. plan was to prop Gorby up, no matter the cost.

Of course Gorbachev is an attractive ruler—compared to Brezhnev, Andropov, or Ligachev. If Joe Stalin is your benchmark, then even Khrushchev is a pretty rad dude. But this doesn't make Gorbachev a heroic figure. After all, the man didn't rise to power with a groundswell of popular support. He notably refused to subject either himself or his reforms to popular elections.

And now the emergence of Boris Yeltsin as president of the Russian republic messes up the whole wicket. Aside from a few unhelpful catch phrases in the American press describing Yeltsin ("populist," "radical reformer"), we know little of substance about him. As Moscow Communist Party chief, he manipulated the bureaucracy effectively—the state shops there actually had items on the shelves. He publicly ridiculed the opulent lifestyle of high-ranking party honchos while refusing to accept any perks himself. He even kissed babies. This record makes a great campaign commercial, but it doesn't constitute an agenda for reform.

Since Yeltsin's election, he has openly challenged Gorbachev's power by drafting a proclamation making the laws in the Russian republic supersede those issued by the Kremlin. Yelstin is also a consistent supporter of multiparty democracy. But we don't know much about his own economic plan: Either he wants to avoid showing his hand, or he's just as clueless as Gorbachev.

Glasnost has improved Western media access but hasn't made journalists more astute. Intoxicated by the freer flow of information, reporters seem more credulous than before. The substance of Gorbachev's and Yeltsin's ideas receives shallower coverage than the NBA finals.

Gorbachev's supporters (including the Bush administration, which has openly snubbed Yeltsin) view the Russian president as an irritating demagogue who threatens Gorbachev's authority. President Bush's infatuation with Gorbachev almost resembles a teenage crush.

Some Gorby skeptics, especially among American conservatives, have fallen into a similar trap: Yeltsin criticizes halfway reforms and says there is no Third Way, so he must be a free-marketeer! But Yeltsin has offered no detailed plans of his own, simply saying that he can transform the Soviet system into a market economy without raising prices or dislocating workers. A more prudent conclusion is that Yeltsin truly resembles a Western politician and knows how to push the hot buttons of a sympathetic audience.

The Yeltsin that emerges from his autobiography, *Against the Grain*, is a dedicated, albeit democratic, socialist who believes that *perestroika* can really work after he breaks that evil bureaucracy. *The Economist* portrays Yeltsin as a nationalist advocating a power shift from the Kremlin to the individual republics. While Yeltsin thus repudiates 70 years of Soviet practice, this disavowal doesn't make him a liberal democrat.

Both rivals lack a coherent vision—*The Economist* notes that each supports *perestroika*, just at different speeds. Without democratic institutions to settle this dispute, an outright power struggle seems likely. Instead of choosing sides, our interests demand that we stand behind reforms rather than reformers. ◼

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LETTERS

Capital Offenses

In her editorial opposing capital punishment ("Capital Punishment: No," June), Lynn Scarlett argues that the state should not execute murderers because it should not be exempted from the moral standards that govern individuals. Would this argument not prohibit other punishments, such as imprisonment, which also involve the use of force?

Government is, by nature, force. Hence it does things that, taken out of context, violate the ethical standards of all freedom-loving people. There is a distinction, however, between the use of force and the initiation of force. It is from this distinction that the state obtains whatever sanction it has for the use of force or, indeed, for existence.

Since all people do not hold the same moral standards, what standards should the state use in determining just retribution for criminal actions? Should government use the ethical standards of the majority in dealing with everyone? The tyranny implicit in this approach is obvious. In its dealing with any given individual the state can surely do no better than to use that individual's own code. A murderer, by his action, clearly indicates that the moral standard governing him does not forbid premeditated killing. The state in executing him doesn't violate the moral standards of the one individual against whom the state is acting forcibly.

Frank A. Kaul
Lawrence, KS

THE VERY REASON murderers are punished at all, whether by death, life imprisonment, or a purgatory of endless court battles, is out of respect for the presumed wish of the victim to live. Note that the actions of a "murderer" could be exactly the same in a murder case as in a euthanasia case. It is the wishes of the victim that distinguish a heinous crime from an act of compassion.

If the entire question of whether a "murderer" really is a murderer depends on the wishes of the victim, why shouldn't the question of a murderer's punishment consider such wishes?

To be sure, murder victims would not be soft on their assailants. Not only do they fight tooth and nail to stay alive, they usually try to inflict the maximum damage to their murderer regardless of their own chances of survival. This is no surprise.

But who among us would not strike back at our own would-be murderer? Some people may take a more sympathetic view. If so, they can register with the police as individuals who, if murdered, do not want their murderer executed.

I, however, would prefer to see my murderer shaved with a rusty potato peeler and burned at the stake. Failing all that, I would at the very least want the court to carry out the sentence almost every murder victim would spend the very last breath of their life to bestow: death.

Jon Osborne
Palo Alto, CA

WHY NOT APPLY FREE CHOICE to capital punishment? Those who oppose the death penalty could put this preference in their wills. They could request that anyone who murders them be kept alive as long as their estates hold out. It is not fair to ask me to pay the cost. When the estate is depleted and no further voluntary contributions are forthcoming, the murderer would be executed. In other words, put your money where your mouth is. As for me, I'll leave a bullet in my will.

Nick Hull
Lenoir City, TN

I AM SURPRISED THAT Jacob Sullum

did not note in his editorial ("Capital Punishment: Yes," June) the most compelling argument for capital punishment—the cost of incarceration. Why should taxpayers collectively spend thousands of dollars a year for decades, when a few cents worth of electricity would do the trick?

Dick Ambler
Flagstaff, AZ

BOTH SIDES ARGUED FROM the tired old perspectives that have encompassed the question since the federal government through its legislative judiciary began meddling in state affairs over a century ago. What troubles me most about the libertarian movement, whose economic agenda I endorse heartily, is its equivocation on capital punishment which means to me that social liberty is closely akin to licentiousness in that area.

In this connection, my eye was caught by the advertisement for *Liberty* magazine, in which "Killing as Therapy" by Thomas Szasz was prominently displayed. I view capital punishment as just that when inflicted upon the social body. The problem in implementing it for that purpose is to guard against executions for mere ideas that do not result in antisocial actions. I believe that we should err in executions more on the side of the innocent than to fail in executing the guilty and that technical failures in modern jurisprudence should not prevent justice.

The problem in all this is the popular idea of "compassion," which envelops everything from the legalistic atrocity of "affirmative action" to animal "rights" to the idea that, in particular, human life should always be saved regardless of its value or perceived value to improvement of the human condition. In this respect, humanitarianism and humanism have both been failures in accomplishing anything beneficial to humanity.

Earl B. Lancaster
Peoria, IL

IF AGENTS OF THE federal government are allowed to kill innocent people by the thousands in places like Panama, it seems petty not to let agents of the state government kill the occasional serial killer or agents of city and county government kill the occasional dope dealer. Government asks so little in return, for protecting and serving, from we the people. Occasionally allowing government a good clean kill, within budget constraints, cannot do that much harm, now can it? Keeps them happy. Keeps us safe, huh!

Rudolph Laubscher
Los Angeles, CA

Artists' Rights and Wrongs

I found Eric Felten's article, "Postmodern Art Laws," (May) replete with honesty, straight talk, and logic, ingredients all too often missing in the business of art.

As a sculptor working in Arlington, Virginia, for the past 10 years, I have firsthand knowledge of the difficulties encountered in making a living as an artist. I certainly do not wish any potential clients to be afraid to invest in my work for fear of litigation imposed by a law which has no constitutional base.

When dealing with a client, either through commission or on an individual-sale basis, it is always my hope that the person will care for and display the work as it is intended. In fact, the majority of purchasers of my work are spending hard-earned monies on an item that has a special depth of meaning to them. For this very reason it is unlikely the art will be misused once it leaves the studio. However, I fully recognize that the work of art purchased, although created by me, is no longer my property, and the owners may do with it as they please.

In 1980, I was commissioned to paint a large wall mural in a Rehobeth, Maryland, beach home. I know for a fact that the home has been sold and the mural painted over. Do I have a right to sue the seller or new owner for painting over the wall rather than removing it? I don't think so! It is not my home, nor my wall. Needless to say, it is unlikely the original commission contract would ever have been signed had the purchaser thought that I might sue him or the new owner for damaging something that, in reality, no longer belongs to me.

I am in total agreement with the individual-contract approach to the sale of art. Every artist has a right to sell to whom he or she pleases and a right to stipulate in the contract conditions (care, installation, resale benefits, etc.) of the sale. In turn, the buyer can refuse the purchase should he or she be uncomfortable with said conditions.

Respect for art, as with all things, must be learned through education and communication, not the passing of more ludicrous laws. Ms. Yoneoka would do well by example to her high school students to care more for her own work by storing it properly. Mr. Goodnight may consider the option of putting his murals on removable panels if he is concerned about their future welfare.

As important as my sculpture and its integrity is to me, the fundamental doctrines of individual and property rights are far more important. If these are discarded it will not be long before artists are being told what they can and cannot create.

M.A. Johnson
Arlington, VA

IT MAY NOW BE ILLEGAL to tamper with or destroy a work of art. We have seen the recent onslaught of legislation to prohibit "obscene" art. This raises the interesting question: What do you do with art that has been created by one person and is considered by another to be obscene? You can picture pieces of art being passed around like hot potatoes: owners of art galleries sneaking into other galleries to leave their unwanted pieces; private individuals putting art out with their neighbors' trash late at night; maybe even huge warehouses built for art which can't be viewed, yet can't be destroyed. You would never guess that these laws are supported by artists.

Gary H. Multer
East Boston, MA

Enemies of Responsibility

Fern Chapman's review of *Enemies of Eros* ("An Indictment of Choice," June)

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LETTERS

raises an interesting possibility when she refers to the lack of stigma attached to men who fail to support their children.

What if the social pressure now exerted against smokers were, instead, rallied against fly-away fathers? What if businesses forgot about recreational drug use but fired anyone who abandoned parental obligations? What if pro-lifers picketed, instead, those men who dump care of their kids on the taxpayers? What if Hollywood shifted its disdain from business to the slimeballs who drive sports cars while their children go barefoot? What if Black Pride turned inward long enough to deny the worth of that 50 percent of black fathers who deposit their children directly on the welfare rolls?

A lot of what-ifs, but certainly a more rational crusade than most of the public's efforts today. I don't expect it to happen, because I suspect a lot of today's crusaders against abortion and denigrators of women's equality are skip-out fathers attempting to justify their lack of responsibility by blaming women for everything wrong with society.

Walter E. Wallis
Palo Alto, CA

Seams in the Zone

I really enjoyed William Tucker's "Zoned Out" (May). He addressed many of the problems of zoning and showed how free people can solve the problems that zoning is supposed to solve without any governmental coercion. Unfortunately, Tucker wrote two paragraphs too many.

Tucker states that "the only truly promising feature" of a coercive act of the state government is that it forces local governments to pay for their "fair share" of housing costs. He said, "That, at least, is an accomplishment."

I disagree. The centralization of power should never be praised. While local governments ought to bear the costs they impose, I do not believe that two wrongs make a right. As bad as local zoning is, the state zoning that such policies will inevitably bring is deadly medicine to the already ailing concept of limited government.

William R. Carr
San Jose, CA

Burning Issue

Jacob Sullum's editorial about smoking legislation and policies ("Beyond the Smokescreen," May) shed some interesting light on this issue. Unfortunately, Mr. Sullum failed to recognize that a person's body is his/her private property.

Tobacco smoke invades, pollutes, and poisons nonsmokers who are innocent bystanders. By burning tobacco in enclosed air spaces, smokers are assaulting nonsmokers' skin, hair, eyes, lungs, clothes, etc.

If Mr. Sullum's reasoning is applied to other issues, robbery, rape, and murder would also be justifiable as long as these acts were committed in someone else's home, business, or airplane.

The most fundamental property is one's own body, and policies, private or public, that prohibit indoor smoking protect everyone's private property from the toxic chemicals in tobacco smoke.

William T. Godshall
Pittsburgh, PA

Mr. Sullum replies: While smoking may be an "assault" in the colloquial sense—as in "I was assaulted by the sound of the Dead Kennedys' 'Kill the Poor' "—it is not an assault in the legal or moral sense. Intent is crucial to the usual understanding of assault. If you hit me with your car accidentally, that is not an assault; if you run me down on purpose, that is.

Coercion is another necessary ingredient of assault. No one is *compelled* to inhale smoke on an airplane, in a restaurant, or in a neighbor's living room. People who are offended by smoke have the option of going elsewhere. They have no *a priori* right to use someone else's property and dictate the terms of that use.

While smoking is not an assault, it *is* an activity, like playing music on a stereo, that may cause incidental harm or annoyance to others. If the guy next door is

disturbing you by blasting the Dead Kennedys, you have a right to demand that he turn the volume down. But if you can hear the stereo only because you're standing in his living room (or his café or dance club), you have no such right, even if you fear damage to your hearing. He could legitimately insist that listening to the Dead Kennedys—or putting up with cigarette smoke—is a condition of visiting him or patronizing his business.

Right to Buy

Daniel Gross's "Don't Block the Exit" (Apr.) was an excellent and fair-minded overview of the right-to-die controversy. But he erred in saying that the Hemlock Society's books are not sold to the general public. All our publications, including the book on how to end your own life, *Let Me Die Before I Wake*, have been on sale in bookstores and available in libraries since 1982. True, we did hold the book in 1981 for members only, but we were widely criticized for self-censorship, and since then the book has sold well over 100,000 copies.

Derek Humphry
Executive Director
National Hemlock Society
Eugene, OR

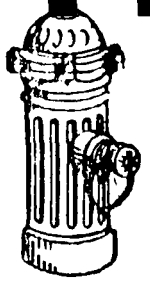
Industrial Wastes

Virginia Postrel's editorial "A New Industrial Policy" (June) suggests deregulating industry "to take politics out of the marketplace." She then provides examples of excessive regulation and warns about the thrust of a new socialistic industrial policy that would promote government favoritism for "a privileged few companies or industries." One may add, for a few favored technologies.

We have seen the pervasiveness of the latter in the activities of Craig Fields, formerly director of the Pentagon's Advanced Research Projects Agency. He consistently used tax revenues to underwrite the commercial technologies of his choice, to establish an OPEC-style government consortium, and to subsidize a number of existing corporations. Wiser heads prevailed, and he was recently transferred to a different Pentagon job.

This move, however, hasn't dissuaded socialistic planners. Their industrial policy would permanently institute in federal law Fields's practice of centrally planned, tax-funded technologies, leading to more central planning in the future. Many new federal jobs would become available for unemployed economists and academics.

Often overlooked in the discussion of industrial policy is a complete body of federal law that uses tax revenue for a single purpose: to keep newcomers out of markets controlled by existing corpora-



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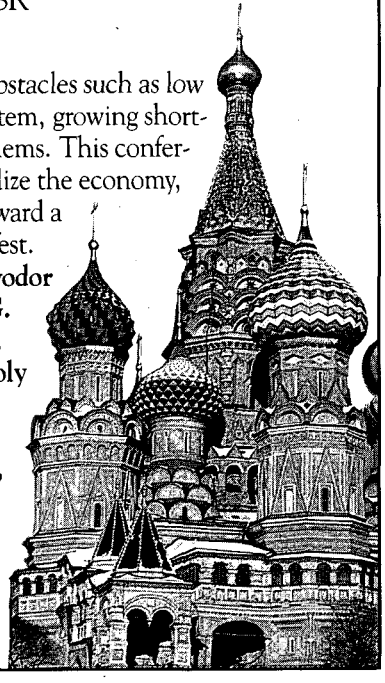

LETTERS

tions. There are now 87 economically concentrated industries whose corporate members no longer compete among themselves within domestic markets. By keeping newcomers out of markets controlled by stultified firms, "Yankee ingenuity" has all but left world markets.

The tax code has been twisted into a capital-protection instrument designed to shield these oligopolies. Section 174, the R&D tax deduction, subsidizes the R&D costs of abandoned corporate ventures but not the same costs incurred by failed newcomers. In 1989, the U.S. Treasury lost more than $20 billion to subsidize corporations that have been or will be abandoned. Yet not one dollar of this huge subsidy assisted newcomers.

Employer-paid fringe benefits—now averaging 43 percent of employees' before-tax incomes—also receive tax-code preference. Yet self-employed people trying to establish new enterprises aren't so lucky. They pay a greater proportion of taxable income in FICA taxes and receive fewer deductions for life- and health-insurance premiums.

These are but a few of many examples of venture *inequities* promoted by federal law. They prevent entrepreneurs from going into business, cause an economic concentration of domestic industries, and erode our competitiveness in world markets. Only a fool would believe that the United States can effectively compete when U.S. corporations—shielded by government regulations—need not fear competition from existing companies or from newcomers in domestic markets.

David G. Soergel
Gaithersburg, MD

Coming in October: special Letters section on animal rights.

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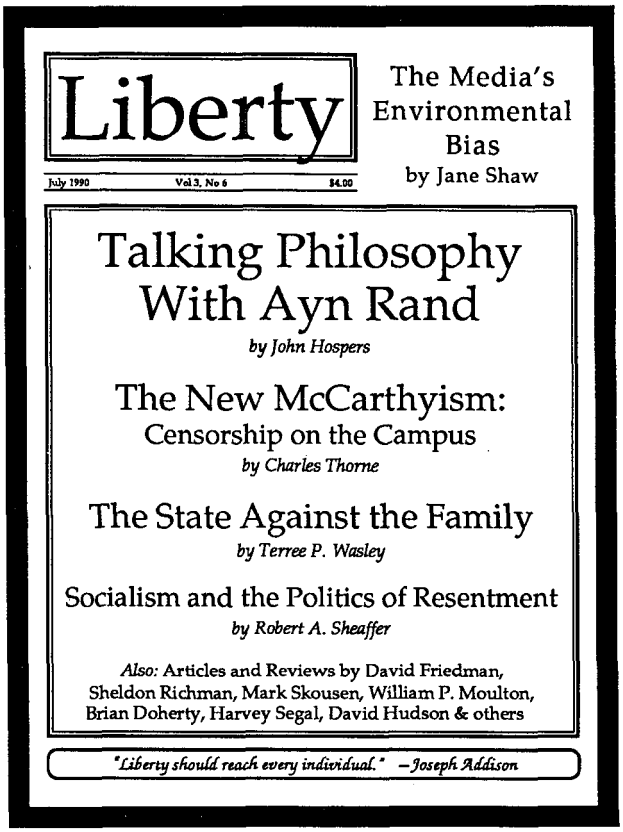
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Murray Rothbard and the Close of His System Chris Sciabarra surveys the criticisms of Rothbard's libertarian philosophy by conservatives, Hayekians, Randians and leftists, and determines that the critics are, in part, *right*.

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Illegal Practice

In the world of "Peanuts," Lucy Van Pelt can get away with setting up a stand advertising "Legal Advice 5¢." If she tried that in the real world, she just might get carted off to jail for unauthorized practice of law.

That may change in California, however. A new bill authored by state Sen. Robert Presley (D-Riverside), the first of its kind in the nation, would allow nonlawyers to offer a wide range of legal services directly to the public. The measure, proposed by the consumer group HALT, would enable independent "legal technicians" to compete with attorneys without fear of prosecution.

"We consider it an issue of consumer choice," says Debbie Chalfie, HALT's legislative director. She cites a recent study by Nolo Press of Berkeley comparing paralegal fees to those of low-cost attorneys in California. On average, the lawyers charged $625 more for uncontested divorces, $120 more for wills, $375 more for bankruptcies, and $500 more for incorporations.

Although California has allowed paralegals fairly wide latitude in recent years, nonlawyers feel constrained by a vague statute forbidding unauthorized practice of law. Nonlawyers offering legal services have been fined and jailed under similar rules in other states.

HALT favors abolishing unauthorized-practice rules, allowing clients the counsel of their choice. Presley's bill would not go quite that far, but it would allow legal technicians to perform all functions of lawyers except representing clients in court. Legal technicians would register with the state, but they would not have to meet any training requirements. A state-appointed Board of Legal Technicians, however, would require certification tests for some legal specialties.

Chalfie notes that legal technicians can serve low-income clients who otherwise could not afford legal help. The consumer benefits promised by Presley's bill have attracted the support of the NAACP, the Mexican-American Legal Defense and Educational Fund, the Coalition of Labor Union Women, and the Consumer Federation of California, among other groups. Even the California State Bar's Public Protection Committee has endorsed expanding the role of legal technicians.

Although bar associations in other states have been eager to see nonlawyers prosecuted for competing with attorneys, Chalfie says the California bar has been more tolerant. Some possible reasons: concerns about violating antitrust law; negative publicity generated by unauthorized-practice cases in other states; and the recognition that many Americans cannot afford legal services.

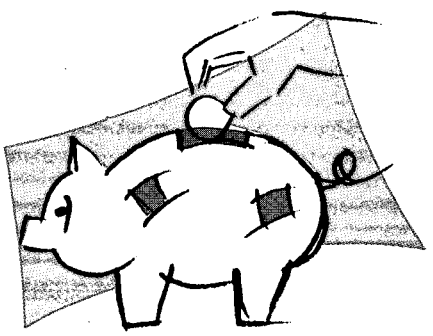
"The legal profession can offer no other solution to this problem," Chalfie says. "They realized that they end up looking like the bad guys."

—Jacob Sullum

A Penny Saved

Why do people find it hard to get off welfare? One reason is that current laws require a client to spend most of his or her savings in order to receive welfare, and they cut welfare allowances if a recipient's savings increase.

Michael Sherraden, an associate professor of social work at Washington University in St. Louis, notes that asset accumulation is one of the reasons why the richest Americans get and remain wealthy. The richest 20 percent of Americans earn 46 percent of the country's income but own 75 percent of the wealth. By contrast, the poorest 20 percent of Americans earn 4 percent of the income but own only 0.1 percent of the wealth.



For generations, liberals and socialists have attempted to reduce this gap between the rich and the poor by redistributing income. But Sherraden, in a paper published by the Progressive Policy Institute, a centrist Democratic think tank based in Washington, D.C., suggests that low-income Americans might be better able to permanently escape poverty by building assets. Accumulating assets, Sherraden notes, "leads people to behave in productive ways: planning ahead, deferring consumption, working harder, and saving."

To encourage asset building, Sherraden proposes that the federal government create "Individual Development Accounts" (IDAs). These savings accounts, like Individual Retirement Accounts, would be voluntary, and the earnings and interest in them would be exempt from federal taxes.

Sherraden proposes four types of IDAs—for housing, college education, self-employment, and retirement. Sherraden suggests that the federal government match the contributions low-income workers make to their IDAs, in some cases at a greater than dollar-for-dollar rate. By creating accounts, Sherraden contends, the federal government would make "more Americans stakeholders in our free-enterprise economy." *—Martin Morse Wooster*

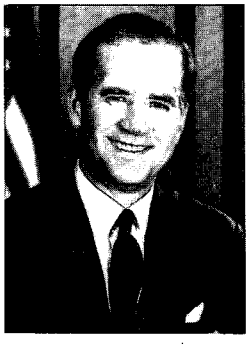
The One-Percent Solution

In his continuing effort to outdo the Republicans as a drug warrior, Sen. Joseph Biden (D-Del.) released a Senate Judiciary Committee report in May purporting to show that 1 in 100 Americans is a "hard-core cocaine addict."

The startling finding, which Biden touted as two-and-a-half times the Bush administration's estimate, made a big splash in the news media. A closer look at the report, however, reveals a number of unjustified assumptions.

First, the committee's survey applies the label *hard-core cocaine addict* to several different groups, using inconsistent criteria. The groups include cocaine users who entered drug treatment during 1989; respondents who reported using cocaine once a week or more frequently in the 1988 National Household Survey on Drug Abuse; and arrestees with traces of cocaine in their urine. The report adds 55,000 homeless addicts, based on an unsupported estimate of 2.1 million homeless; it further assumes that a homeless person is five times as likely as someone living in a household to abuse cocaine.

Second, the study uses shaky methods to measure the number of cocaine-using arrestees, who represent most of the newly discovered "addicts." It employs the results of urinalysis tests from the nation's 20 largest cities to estimate the number of cocaine-using arrestees in 44 other cities that *were not surveyed.* It applies arbitrary proportions to smaller towns and rural and suburban areas. Moreover, the study assumes that 80 percent of cocaine-using arrestees are addicts.



Has Joe Biden found 1 million new addicts?

Third, the state-by-state tallies of addicts offered by the committee report are spurious. They are based on the assumption that the 862,000 people identified as weekly cocaine users in the National Household Survey on Drug Abuse were geographically distributed in precisely the same way as the users who had been arrested or who had entered treatment.

The report goes through the motions of eliminating overlap among the four sets of figures on which the study relies—each of which is derived by a different method and based on a different definition of addiction. But because they require wild conjecture, these efforts would be inadequate even if the various numbers referred to the same phenomenon.

So was the figure of 2.2 million cocaine addicts pulled out of thin air? Not exactly, but it might as well have been.

—Jacob Sullum

Casting the First Stone

After reaching a plea-bargaining agreement with the district attorney in Ashland, Wisconsin, Donna E. Carroll will perform 40 hours of community service for committing a felony. Her crime: adultery.

Carroll's case began last summer. During a bitter divorce and child custody battle, her husband, Robert, accused her of having an affair with another man and filed a criminal complaint. Under Wisconsin law, a married person who has sexual intercourse with someone other than his or her spouse or an unmarried person who has sexual intercourse with someone married is guilty of adultery.

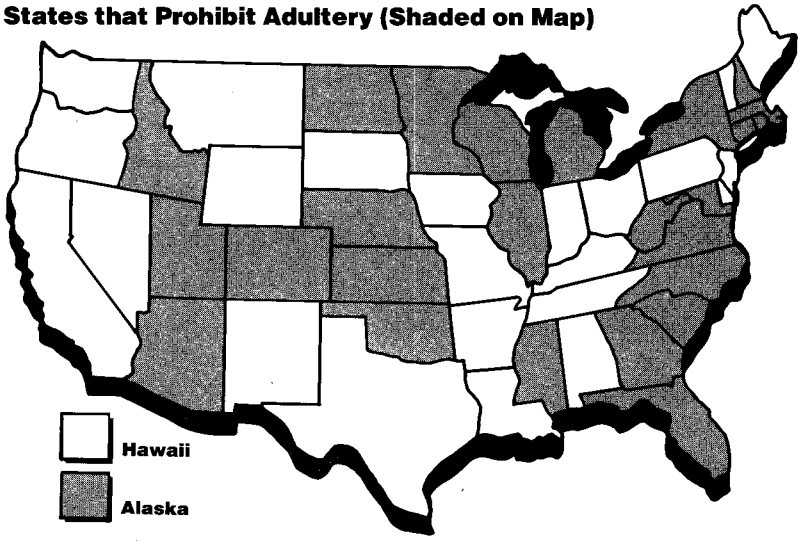
Carroll denied that she had committed adultery, but District Attorney Robert E. Eaton decided to act on her husband's complaint and filed charges against Carroll. "The law is on the books," says Eaton. "There was strong evidence presented to me of a violation. For me to decide not to prosecute would be, in effect, to declare the statute null and void. That is not my role as district attorney." Had her case gone to trial, Carroll could have faced a maximum penalty of two years in prison and a $10,000 fine.

Currently, 26 states and the District of Columbia prohibit adultery, but the penalties vary widely. In Michigan, it is a felony that can bring up to four years in prison. In New Hampshire, the crime is punishable by 39 lashes, standing for one hour on the gallows with a noose around the neck, or one year in prison. But in Maryland, it is a misdemeanor that brings only a $10 fine.

Some studies indicate that 30 percent to 70 percent of married people have engaged in extramarital sex. Prosecutors often add adultery to prostitution charges, but prosecutions for simple adultery are rare.

—Charles Oliver

States that Prohibit Adultery (Shaded on Map)



BALANCE SHEET

Assets

No Percentage in It. George Bush walks a civil-rights tightrope. He successfully schmoozes Ben Hooks and a dozen other civil-rights activists but takes counsel from Bob Woodson, Clint Bolick, and the *individual*-rights caucus. The Kennedy-Hawkins Act seems likely to pass, but Bush vows to "not sign a quota bill." Will the president stand his ground and make *Congress* compromise?

Save an Aisle Seat. A landmark opinion by U.S. Ninth Circuit Judge Alex Kozinski defends a cinema-chain owner from monopoly charges. By weaving more than 200 hidden movie titles into the text, the judge makes sure people will read it. Behind his wit, Kozinski scores an important point: No restraint of trade can exist without legal barriers to entry. Thanks to Kozinski's defense of the market, against all odds, antitrust could be gone with the wind.

Hungry Little Buggers. Biotech ain't dead. A Campbell, California, company sells $20 bags of grease-eating microbes to help restaurants clean up garbage. Inipol, a French-made fertilizer, munches on globs of oil in Prince William Sound. University of Louisville biologist Ronald Atlas calls this "the back-to-nature pollution cure."

Duck Hunting. John Sununu calls Congress's bluff and temporarily delays a tax increase. Incumbents up for reelection don't know what to fear most: raising taxes or cutting spending in their home districts. Meanwhile, Harvard's Lawrence Lindsey, hardly a conservative, calls for a new round of supply-side tax cuts to put the budget into *surplus* within five years.

Liabilities

Run Aground. The *Goddess of Democracy* never broadcasts pro-liberty messages to mainland China, thanks to Japan, Taiwan, and Hong Kong. (See "Dream Deferred," July.) Tokyo and Taipei kowtow to Chinese threats, refusing to let the ship carry transmitting equipment. Organizers of the project will sell the ship to cover costs but plan to provide taped broadcasts to international radio services.

Hearings from Hell. First, cosmetic surgery. Then, Alar. Now, *Slim-Fast*? Rep. Ron Wyden (D-Ore.) takes on the $33-billion diet industry with a series of hard-hitting congressional hearings. Wyden blames "hucksters who ply their dubious wares...while government regulators sit snoozing on the sidelines." Tell that to the Keating Five.

Despot-in-Waiting. Violeta Chamorro may have won the battle, the Sandinistas the war. Ortega & Co. still control the unions and the army—and they bankrupted the treasury just before *Doña* Violeta's inauguration. Only Alexander Cockburn and his *yanqui* leftist buddies still love *sandismo*, but Ortega's scheming may keep the revolution alive.

Under the Lights. St. Petersburg may get stuck with a mostly empty Florida Suncoast Dome. (See "Field of Dreams," May.) Despite National League plans to add two new franchises, St. Pete could miss the cut: Its $110-million ballpark has a translucent roof, which, reports *The National*, "will make seeing the ball in day games nearly impossible." St. Louis Cardinals manager Whitey Herzog offers a solution: "a few thousand gallons of paint or $3 or $4 million" for a new roof.

—Rick Henderson

Sorry, Charley

The recent decision by the three major U.S. tuna canners to adopt dolphin-friendly purchasing policies illustrates the pros and cons of green consumerism.

The companies that sell StarKist, Bumblebee, and Chicken of the Sea tuna announced last spring that they will no longer buy tuna caught using methods that kill dolphins. The canners were responding to a Greenpeace-supported boycott and thousands of phone calls, letters, and postcards protesting the practice of casting nets around dolphins that accompany schools of yellowfin tuna in the eastern tropical Pacific Ocean. Although tuna consumption in the United States has been increasing in recent years, the canners worried that the boycott was retarding sales growth.

The switch to skyjack and young yellowfin tuna—which, like albacore, are not caught in conjunction with dolphins—will mean refitting boats to catch the smaller fish. The extra cost and reduced yield per catch are expected to result in retail-price increases of 2 cents to 10 cents a can—a premium that many customers say they're willing to pay in order to save dolphins.

The boycott and the response to it demonstrate that noncoercive methods can be used to achieve an environmental goal. However, it's not clear that the goal was sensible. Michael Kronman, a field editor for *National Fisherman* and a fisheries consultant, notes that there are some 11 million porpoises in the eastern Pacific, a healthy and stable population that is not endangered by tuna harvests. Backers of the tuna boycott would say that individual dolphins, as highly evolved, intelligent animals, are still worth saving.

But Kronman also argues that dolphin-safe policies undermine tuna stocks by shifting harvests to the western Pacific and the Indian Ocean. The tuna in these areas tend to be younger than the eastern Pacific yellowfins, which are generally caught after they have already bred several times.

—Jacob Sullum

ET, Phone Home

Two years ago, Michael Dukakis hyped his "workfare" program, Employment and Training Choices, or ET, as a shining success story of the "Massachusetts Miracle." Now a study issued by the Pioneer Institute in Boston portrays ET as a hopeless boondoggle that encourages dependence on, not independence from, welfare programs.

ET gives welfare mothers job training, child care, and medical care. The state has committed more than $240 million in state and $84 million in federal tax funds to the program since its inception in 1983. ET's supporters contend it has *saved* the state's taxpayers $280 million by placing 67,000 workers in jobs the past six years. Study author June O'Neill says this claim assumes that none of the recipients would have found jobs themselves. Yet before ET, the study notes, more than 4,000 people left the welfare rolls each month.

O'Neill also reports that from 1978 to 1983 the number of female-headed families with children in Massachusetts receiving AFDC payments declined by 25 percent. But from 1983 to 1988, with ET and its basket of benefits, the number of AFDC cases dropped by only 3 percent. She notes that "this was a period of economic boom for Massachusetts and most of the Northeast"—and that the number of people on the welfare rolls in neighboring states dropped much more quickly than in the Bay State.

The report also criticizes ET's contracting program with private job counselors. Since the state gives job trainers extra pay when they place AFDC recipients in permanent jobs, the trainers tend to seek out participants who could probably find work without the state's help.

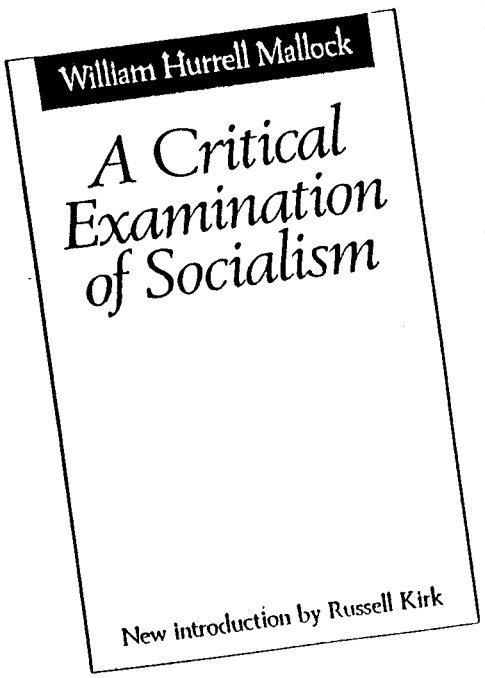
O'Neill concludes that while the Dukakis administration touts ET as a success, "these claims appear to be gross exaggerations." —*Rick Henderson*

Bungle in the Jungle

Someone alert Sting. The Brazilian rain forest isn't disappearing as quickly as environmentalists claim. Environmentalists say vast tracts of the rain forest have been cut down in the last two decades to make room for new farms and villages. They estimate 598,921 square kilometers of rain forest (an area about the size of California and Nebraska put together) have been lost—based on 1978 photos from the Landsat satellite, together with plenty of guesses about the expansion of agriculture, cattle ranching, logging, and urban areas.

But the latest photos from Landsat show that these guesses were wildly wrong. The damaged area actually adds up to 251,429 square kilometers—a sizable amount of land but only 40 percent of the figure claimed by environmentalists. —*Charles Oliver*

An astonishingly prophetic look at Socialism's fatal flaws



Free market reforms or not, Socialism keeps bouncing back because while it has failed economically, it has not been adequately answered.

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BRICKBATS

During a speech at Lehigh University, homeless advocate Mitch Snyder told students that there are 3 million homeless persons in the United States and that 45 of these homeless persons die every minute. Extrapolating from Snyder's numbers, *The Dartmouth Review* calculated that 64,800 homeless persons must die every day, about 2 million every month, and 24 million every year. By Mitch's own figures, the homeless problem should take care of itself in less than seven weeks.

Call it the Milli Vanilli law. New Jersey state representatives Neil Cohen and Joseph Mecca have introduced a bill that would force promoters to tell audiences in advance if an artist uses taped vocals in concert.

Dana Delaney, star of "China Beach," on the plight of women soldiers during the Vietnam War: "The women there suffered the same pain and anger and frustration and futility and fear, but the men had combat as a way to exorcise it." If this is typical Hollywood thinking about Vietnam, no wonder they consider Oliver Stone a genius.

For about a year now, the city of Tustin, California, has been plagued by a rash of cat killings. Hundreds of pet owners have found their kitties horribly mutilated. Orange County Animal Control officers explained that new construction in the hills around Tustin had destroyed the habitat of the small animals that local coyotes prey upon, leading the coyotes to feast on the city's felines. But others saw a more sinister cause. Some area church leaders suggested the cats were being killed in Satanic rituals. So the county autopsied more than 100 cats. Based upon bite marks and other evidence, coroners concluded that the cats had been killed by coyotes, not by people. But hey, no one ever said that the Satanists were *human*.

Rolling Stone continues its tradition of deft social commentary with an attack on private toll roads. *Stone* worries that new roads "will add to congestion." (*!??!*) And even worse, charging tolls means that "the new private roads will effectively be limited to the well-off." Yeah, and if record companies make people pay for all those compact discs advertised in *Stone*, only the wealthy can listen to music.

Tom Cruise took a break from filming his latest movie to take part in Earth Day celebrations in New York City. During a press conference, Cruise told reporters that he was doing "everything I can" to help the environment. When asked how his hobby of auto racing (which is also the subject of his new movie) fits in with his raised consciousness, Cruise got a little huffy. He told reporters that auto racing isn't bad because only a few people do it. Oh, yes, there *is* more to him than just a sexy smile.

Bill Bennett apparently isn't happy just being drug czar, so he's added pop culture to his beat. During a tour of a drug treatment center in Pittsburgh, Bennett came upon a poster of TV cartoon character Bart Simpson. Bennett, who only acts like a cartoon character, turned on the patients. "You guys aren't watching 'The Simpsons,' are you? That's not going to help you any."

The Roman Catholic Church has sent the mayor of Levico Terme, Italy, a $22,000 bill for services rendered. But the mayor refuses to pay. The trouble began in 1630. The bubonic plague swept through Levico Terme, and city fathers asked the church for a special Mass to help ward off disease. Well, the church held the Mass and kept holding it for 360 years. Now it wants payment. On the bright side, the city hasn't had much of a problem with bubonic plague lately.

—Charles Oliver

WE CRACKED THE BARRY CASE FIRST

While the national media kept silent about the disgraceful performance of Washington, D.C. mayor Marion Barry—and while *The Washington Post* was still endorsing Barry for reelection—we were uncovering the Barry administration's incompetence and corruption—ahead not only of the *Post*, but of *The New Republic*, and local Washington magazines as well.

And that's not the first time we anticipated the news that would later make headlines . . .

➥ Years *before* the Challenger disaster, we warned that the space shuttle was unsafe, saying, "Here's the plan. Suppose one of the solid-fueled boosters fails. The plan is, you die."

➥ Months *before* the stock market crash in 1987, we warned that the programmed trading and low-margin stock options could turn a bad day into Black Monday.

➥ Months *before* the Iran-Contra scandal broke in newspapers, we warned readers, "This National Security Council staff is the worst in history."

➥ Three years before the downfall of House Speaker Jim Wright, *The Washington Monthly* warned its readers: "If Tip O'Neill seems like the sort of guy who would write out a taxpayer endorsed check to everyone who tried to sell him swampland in Florida, Jim Wright seems more like the guy selling the land."

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AMERICA'S love affair with the automobile has become a cliché, often a snide one. But in the early days, there was real passion. "You know, Henry, your car lifted us out of the mud," a farmer's wife living near Rome, Georgia, wrote to Henry Ford in 1918. "It brought joy into our lives. We loved every rattle in its bones."

Even American reformers and intellectuals were favorably inclined. In his 1916 book, *The Romance of the Auto Industry*, James Rood Doolittle expressed the belief that the car would "increase personal efficiency,...make happier the lot of people who have led isolated lives in the country and congested lives in the cities; [and]...serve as an equalizer and a balance." Conservationists saw the automobile as a great advance—no longer would vast quantities of fertile farmland be lost feeding horses. And, with mobility, rural youth might even stay on the farm, rather than rushing away to the big city.

But those early positions have long vanished. Today's intellectuals and reformers have little respect for the automobile—or for automobile culture. The car's very convenience seems an indulgence, a waste of resources and money. "The Soviet Union's greatest contribution to world peace was the fact that it did not put a car in every Soviet citizen's garage," says Ralph Nader.

Political activists such as Nader have no monopoly on hostility to the automobile. Among the well-educated and well-to-do, nostalgia for train travel and paeans to subways are as common as complaints about traffic congestion. But those who prescribe subways for America's cities rarely hold the jam-packed trains of Tokyo up as a paragon; the Washington Metro, whose modern cars often travel all but empty, is a more appealing model. And those who sing the praises of mass transit are the first to complain about crowded airplanes. One begins to suspect that the problem with automobiles is that they're too democratic: They let too many people on the road.

The specific charges levied against the only truly democratic form of transportation are many: the destruction of traditional urban America, condemning Americans to the sterility of suburbia; the slaughter of over 40,000 people annually; the consumption of vast quantities of "nonrenewable resources"; the fouling of our air and our climate; congestion that has made a mockery of the car's promised mobility. Critics assert that Americans must renounce this faithless machine and accept the virtues of collectivist transportation. Schemes ranging from doubling the gasoline tax to odd/even rationing plans to outright bans of automobile ownership are eagerly proposed.

But the charges lodged against the automobile are largely incorrect, and the accompanying prescriptions are flawed. The coming of the automobile not only brought mobility but relieved pollution and improved safety. And many of the problems associated with automobiles are the result of too much, not too little, political control.

The reformers' rejection of the automobile reflects, in part, their distaste for capitalism and its main beneficiaries. Intellectuals have particular contempt for the self-expressive gaucherie of American car culture—tail fins, hot rods, drag racing, and, worst of all, the Pink Cadillac. To a large degree, their hostility to the automobile is simply a manifestation of their larger hostility toward unfettered American individualism.

The automobile offers not only personal mobility but personal space; ensconced within their cars, drivers may sing along with the radio, avoid panhandlers, hang fuzzy dice on their rearview mirrors, put on makeup, and otherwise behave as if they were in their own homes. Early car proponents noted that automobiles, as opposed to public transit, preserved women's modesty, protecting them from pawing or unsavory gazes from strangers. Of course, automobiles from the beginning also provided convenient sites for lovemaking.

THE LIBERATING BENEFITS OF AUTO

A SAFER, CLEANER, AND MORE MOBILE SOCIETY

BY FRED L. SMITH

By giving individuals control over when and where they go, automobiles render impossible the planned world so desired by the coercive utopians—those well-meanig despots who seek to stifle human nature and thereby save humanity. As Brock Yates, former author of "The Dream Machine" column in the *Washington Post,* has noted: "The ownership [of cars] is discouraged in totalitarian societies. A mobile population is a population essentially out of control of centralized government."

When *The Grapes of Wrath*, the powerful film depicting the plight of the Depression-era rural poor, was shown in the Soviet Union, audiences were struck less by the pitiable condition of the Joad family than by their mobility. "I will never forget the American film made from Steinbeck's *Grapes of Wrath*," wrote Lev Navrozov in his 1975 book, *The Education of Lev Navrozov*. "The author and the film-makers wanted to show the *life of the poor* in the thirties. The poor rode about in trucks. The Russian audience stared. Even a small dingy car thirty years old is a status symbol here perhaps as high as a yacht in the United States. But the ownership of a truck is something as would, in the United States, be the ownership of, say, a fleet of

dirigibles. The audience perceived Steinbeck's wrathful message of *poverty* as a futuristic fantasy about extraterrestrials riding about in their fleets of dirigibles."

ALTHOUGH the automobile was not invented in America, it was here that mobility was first democratized. In the late 19th century, cars were the toys of the rich—beautiful handcrafted items requiring vast effort to build and maintain. The automobile, Woodrow Wilson feared, would stimulate socialism by "inciting the poor to envy the possessions of the rich." And in Europe, cars did remain unavailable to all but the wealthiest until after World War II.

But in America, Henry Ford's populist vision and capitalist genius put the world on wheels. His pioneering assembly-line production methods could produce a car in 70 man-days; in Europe, where carriage-trade practices still held sway, 3,000 man-days were required. When the Model T was discontinued in 1927, over 15 million had been sold.

European governments saw cars as luxury items and adopted policies early on that kept them in that class until after World War II. From the beginning, very high horsepower and fuel taxes priced automobiles out of the range of moderate-income Europeans. (In the British Parliament, Herbert Asquith argued in 1907 that a tax on cars was "almost an ideal tax because it is a luxury which is apt to degenerate into a nuisance.") No such restrictions hampered American industry, which responded by producing inexpensive autos that quickly increased in quality and performance.

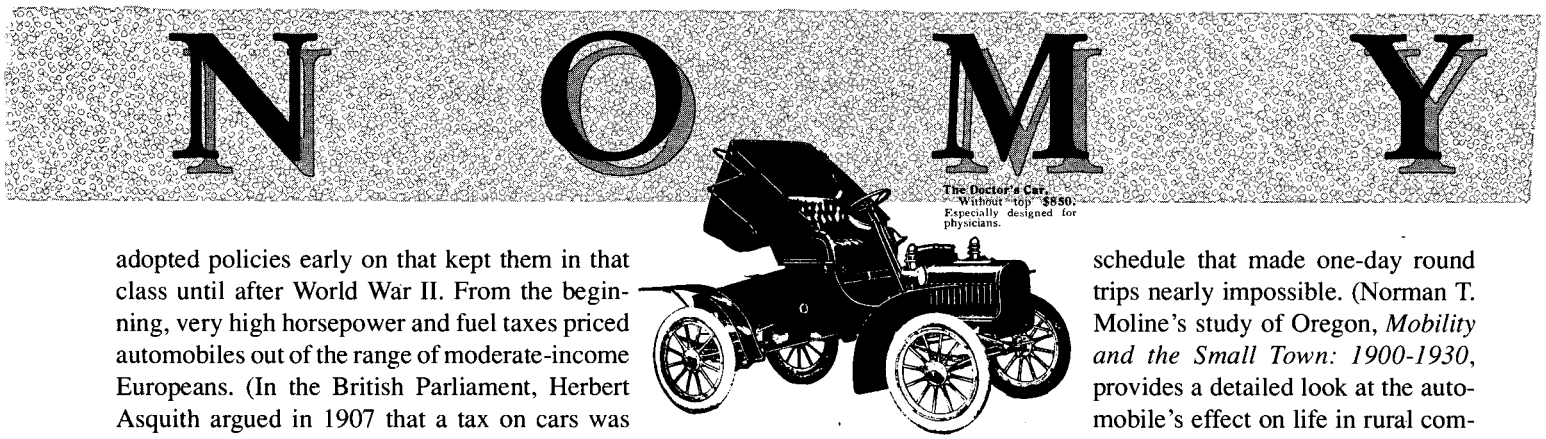
American manufacturers also had the benefit of a more promising customer base than Europeans. The flat terrain of the Midwest was more suitable for early, poorly powered automobiles than mountainous Europe, and the large and relatively prosperous rural population was already familiar with steam- and gasoline-powered farm machinery. In 1908, when Ford introduced the Model T, half the U.S. population lived on farms or in towns of less than 2,500. Farmers eagerly adopted the automobile, and it dramatically changed rural life. In 1909, *Collier's* reported that in Iowa 1 out of every 34 farmers owned an automobile, versus 1 family out of 190 in New York City.

Entrepreneurs reinforced this demand by pioneering rational consumer financing arrangements. General Motors Acceptance Corporation was launched in 1919. Within two years there were more than 100 car-financing companies in the United States. Buying on time made it possible for most employed Americans to gain automobility.

Consequently, the growth in car ownership in America was explosive. In 1910, there was 1 car for every 44 households; by 1930, it was 1 for every 1.3 households. England didn't reach that level until 1966. In 1929, the U.S. companies manufactured 5.3 million motorcars—10 times the total of the combined output of all the rest of the nations of the world. Eight thousand vehicles were registered in America by 1900; by 1940, the number had reached 32 million.

BEFORE the coming of the car, many Americans relied on the sort of fixed-schedule mass transit prescribed by today's auto critics—trains, subways, and trolleys. Trains, in particular, were vital to rural life. But depending on a combination of horses and fixed transportation rendered the rural population essentially immobile.

The speed of the horse was only about 6 mph to 8 mph, and a horse could only go about 25 miles without extensive rest. To travel the 25 miles from Oregon, Illinois, to the neighboring town of Rockford, for example, took about four hours by horse. Most people, however, took the train, confronting a fixed schedule that made one-day round trips nearly impossible. (Norman T. Moline's study of Oregon, *Mobility and the Small Town: 1900-1930*, provides a detailed look at the automobile's effect on life in rural communities.)



The Doctor's Car. Without top $850. Especially designed for physicians.

Doctors were the first to abandon trains and horse-drawn carriages for the speedier automobile.

Before the automobile, Oregon residents made understandably few trips to Rockford. A diary kept by Oregon resident Hugh Ray records three trips to Rockford from 1901 to 1903; 10 years later, the Ray family could travel with auto-owning friends and made eight trips from 1911 to 1913. After the Rays bought their own car in 1916, they began to visit Rockford every three or four weeks.

The automobile, which traveled more slowly than a train but adhered to its owner's personal schedule, knit Oregon, Rockford, and surrounding communities together. Although we associate the car with urban sprawl—cities spreading out from their centers into the suburbs—it also created new metropolitan areas by bringing together small towns.

For city dwellers, mobility began to improve prior to the automobile: Both the bicycle and street railroads created swifter means of travel about urban areas. The "safety bicycle" was first popularized in 1885 and laid the basis for the industrial structure that would soon be converted to automobiles.

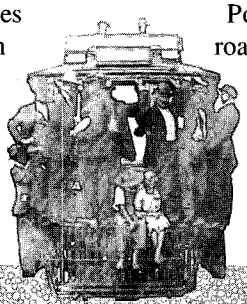
By 1900, there were some 850 electric trolley systems

operating over 10,000 miles of track. Today, anticar intellectuals look back on the trolleys as Edenic carriages overthrown by the automobile serpent. Trolleys did provide clean, reasonably priced service, but they were inflexible and there was no easy way to bypass a disabled vehicle. The costs of building and maintaining the rail infrastructure were very high.

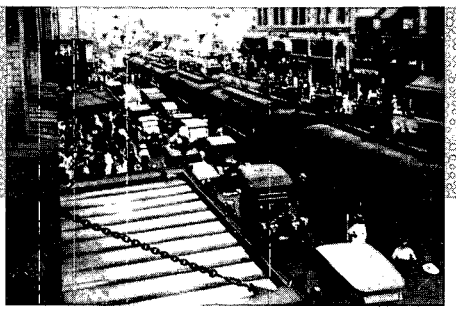
Nor were trolleys immune to public criticism. By 1918, the Los Angeles streetcar system's five-cent fare could no longer cover its costs, but public resentment made increases politically impossible. Riders complained bitterly about being forced to stand in crowded cars. "Is it not about time you took steps to ascertain just why the Pacific Electric [the famous Red Cars] gets by with the putrid brand of transportation they are dishing out?" a Venice citizen complained to the local board of trustees in 1920. "Is there no redress for the hundreds of citizens in this community who are forced to pay high fares—to be handled like cattle?"

Long before the freeways, Angelenos were escaping public transit and buying private automobiles at a far greater rate than other Americans; in 1915, Los Angeles had 1 car for every 8 residents, compared to a national average of a car for every 43 people. These cars caused downtown traffic jams—less when they were moving than when they were parked.

Automobiles allowed travelers to escape the fixed schedules and routes of trains, bringing new mobility to people in small towns and rural areas.



Trolleys provided cheap transportation but were notoriously inflexible. There was no easy way to bypass a disabled vehicle.



Los Angeles's Red Cars are remembered fondly by people who never rode them, but the trolleys were usually dirty and overcrowded.

Then, as now, many drivers expected to park at the curb for free, as they had in the days of horses. The city briefly tried to ban curbside parking from a congested area of downtown, only to face a political rebellion. Eventually, the city backed down, the streets remained crowded, and paid parking lots began to appear. More importantly, stores moved out of downtown to less crowded areas where they could provide private parking lots for their customers. Contrary to the claims of automobile critics, such "free" parking does not constitute a subsidy, since it is included in the store's cost of doing business and passed along to customers in the prices they pay. The same cannot be said, however, for free curbside parking.

Los Angeles also pioneered a common Progressive-era policy: squelching the private jitney services that sprang up to offer commuters group transportation via automobile. Some jitneys were full-blown businesses, running regular routes or offering door-to-door service. In other cases, commuters simply stuck signs in their car windows announcing their destinations and charged a nickel to any passenger going their way. The jitneys cost the same as streetcars but carried passengers at speeds 150 percent to 200 percent faster.

Said Atlanta jitney proponent and auto dealer George Hanson: "Jitneys mean convenience in transportation to the public never dreamed of before by those who have ridden on badly heated and badly lighted streetcars which have dumped them off at street corners, in the middle of the street, probably in a mud puddle. Not so with the 'jitney.' The ladies will not have to get their feet soaked with rain and mud. The 'jitney' will drive you to the curbstone in front of your residence." Naturally, such service posed a grave threat to the financially troubled streetcar monopolies, and cities from Los Angeles to Atlanta quickly moved to outlaw or severely restrict jitney service—depriving urban dwellers of an inexpensive form of "public" transportation that offered much of the automobile's comfort and flexibility.

Politics also intervened in road building. As car ownership increased, people began to demand better roads. The first American limited-access highway exclusively for automobiles was a 45-mile, privately built toll road linking Great Neck, New York, to Lake Ronkonkoma—the Long Island Motor Parkway, begun in 1908. However, toll roads were opposed by the highway establishment, and politicians rushed to preempt private solutions.

One spokesman noted that a toll road would generate only 30 percent new traffic, while a "free" road might generate twice that amount. The concept that traffic volume, rather than willingness to pay, was the appropriate measure for determining highway decisions introduced a major bias into highway investment and operating decisions. Roads were justified on the basis of proposed usage levels, not on the basis of the value of that usage. (The value of roads need not only have been measured by tolls; traditionally, many roads had been paid for and maintained by the adjacent property owners, who wanted access to their homes, farms, or businesses.)

To finance road construction, state governments elected to focus on more-diffuse tax approaches rather than tolls. The early preference was for the gasoline tax. Oregon, New Mexico, and Colorado were the first states to impose this "user fee," beginning in 1919. By 1929, every state and the District of Columbia had imposed such taxes, generally at about three cents a gallon.

Unlike Europeans, Americans have tended to restrict gasoline taxes to road-related projects. But that principle has gradually eroded, as other political constituencies—including anticar groups—have gained power. In 1982, for the first time, Congress

CITY OF LOS ANGELES ARCHIVES

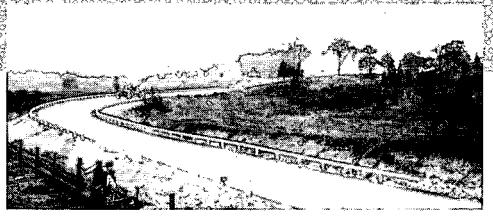
diverted one cent per gallon of the increased federal gasoline tax to mass transit. Later, politically preferred fuels (ethanol and methanol) were exempted from the federal user-tax system.

The automobile's critics often note the irony of a technology that promises mobility ending in gridlock. But, of course, most drivers make most trips without ending up stuck in traffic. And congested highways are not inevitable: The very concept of "congestion" is an artifact of political control. Early on, we opted for a financing system that severed the relationship between the price paid for access and value to the user. Drivers who use uncongested roads or who travel at less popular times of day pay the same gas taxes as people who clog the freeways at rush hours. And there is no incentive, other than political pressure, to add capacity to overcrowded roads.

In their truck, the Joads were able to seek a better life in California. Private automobiles allowed thousands to escape the Dust Bowl.

Can one imagine a private provider viewing a situation in which too many people wish to use his services at current prices as a "problem"? Yet in the absence of a rational pricing policy, the only rationing system available is based on the willingness to sit still on the freeway. Although it creates a vibrant market for car phones and books on tape, this is not the way a reasonable system allocates resources.

The first highway built exclusively for automobiles was this 45-mile, private toll road—the Long Island Motor Parkway.



CARS create pollution. This most common indictment of the automobile is, of course, true. But it's also true that cars may well have dramatically decreased overall pollution.

Pre-car America bore less resemblance to the spotless museum world of Colonial Williamsburg than to a stockyard. A horse produces approximately 45 pounds of manure each day. In high-density urban environments, massive tonnages accumulated, requiring constant collection and disposal. Flies, dried dung dust, and the smell of urine filled the air, spreading disease and irritating the lungs. On rainy days, one walked through puddles of liquid wastes. Occupational diseases in horse-related industries were common.

In this day of animal rights, it is hard to imagine a world of dray horses dying in harness; but that world is less than a century behind us. New York City in the 1880s removed 15,000 dead horses annually. Like the car carcasses of today, they were not always disposed of in a timely fashion. And an abandoned horse is a far more troublesome nuisance than its modern equivalent.

The Club of Rome did not pioneer predictions of doom that ignore technological innovations. In 1885, A British writer described the future of London: "It is a vast stagnant swamp, which no man dare enter, since death would be his inevitable fate. There exhales from this oozy mass so fatal a vapour that no animal can endure it. The black water bears a greenish-brown floating scum, which forever bubbles up from the putrid mud of the bottom....It is dead." From this we were saved by the automobile.

The automobile also encouraged developments that reduced air pollution. Before the automobile, most urban homes and businesses were heated with coal, an extremely dirty source of energy that spewed sulfur dioxide, particulates, and toxic ash into the air. As the demand for gasoline stimulated oil exploration, heating oil and natural gas became cheaper and more readily available.

In 1919, General Motors pioneered installment financing. Time payments allowed almost every American with a job to purchase an automobile.

Of course, as other sources of air pollution were reduced, the automobile became a significant residual source of various air pollutants, particularly carbon monoxide, hydrocarbons, and nitrogen oxides. Even today, however, these emissions pose neither health nor visibility problems in most places. But under selected climatic conditions, in dense urban areas, these pollutants can cause a level of discomfort that the inhabitants find unacceptable. This happens regularly in a very few cities (notably L.A. and Houston) and a few times a year in some other cities. Rural areas are not troubled by poor air quality.

A rational society seeking to ensure wise management of airsheds would devise institutional arrangements that harnessed pollution-mitigation technologies to the incentives of those causing the polluting—charging specific polluters for the specific harms they do. Instead, we have instituted a moral crusade against the sin of emission (and against the automobile). By failing to recognize that emissions can create more or less damage depending upon whether they occur in rural Missouri or downtown Los Angeles on a summer day, we spend most of our resources controlling emissions in areas where no pollution occurs.

IN *Rebel Without a Cause*, James Dean competes in a suicidal drag race. The film fate of his challenger foreshadows Dean's own death in the California desert at the wheel of a Porsche Spyder bearing racing stripes and the legend

COURTESY OF NASSAU COUNTY MUSEUM LIBRARY

"Little Bastard" on the tail. The automobile as animistic evil force is later explored in Stephen King's *Christine*, which features a blood-red 1957 Plymouth Fury as the automobile equivalent of Dr. Frankenstein's monster.

These are extreme expressions of a widely held view that automobiles are inherently dangerous. The belief that the automobile has made the world less safe is natural for a conservative people. A new technology introduces new risks, even when it makes the world much safer. Safety can only be increased by prudent risk taking. Fire introduces the risks of burns and asphyxiation; this is outweighed by the reduced risks of exposure, starvation, and wild animal attacks. But new risks are always weighed more heavily than are older, more-accepted risks, and the automobile is no exception.

Indeed, early cars were by all accounts unsafe. A turn-of-the-century postcard depicts a motorist leaning out of his car to ask a hunter in the field, "Killed anything yet?"; he receives the reply, "No, have you?" Early cars combined relatively high power with an absence of reliable braking, steering, suspension, and other safety features.

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Automakers introduced safety features like hydraulic brakes, balloon tires, and laminated glass before Ralph Nader was born.

The roads were little more than cleared paths, and the experimental vehicles of the day were often shaken apart.

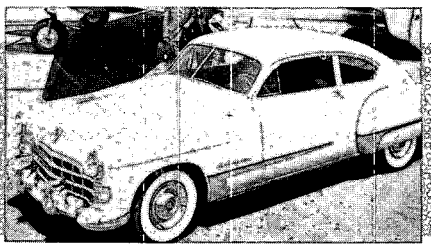
But even the early cars were seen as much safer than horses. Rene Bache, writing in the *Saturday Evening Post*, reported that some three-quarters of a million people were injured by horses in 1900. In 1899, *Harper's Weekly* said, "a great many folks to whom every horse is a wild beast feel much safer on a machine than behind a quadruped, who has a mind of his own, and emotions which may not always be forestalled or controlled." Women and the elderly, in particular, could not always control a horse team. And the brakes and other controls of the early cars were already superior to those of horses.

The automotive industry began to introduce safety features almost immediately. Typically, a new feature would be introduced on a luxury brand and then over the next four years would become standard equipment on most cars. Four-wheel hydraulic brakes, balloon tires, and laminated glass windshields were all widely available by 1927. Unlike horses, cars could and did rapidly increase in safety over time. In 1921, there were 25.3 highway fatalities per 100 million miles of travel; in 1941, there were12.0, and in 1947, 8.8. The figure had dropped to 5.2 by 1966 and to 2.2 by 1989.

We should also recognize the risks of an immobile society, and the advantages of rapid and flexible transportation, particularly in emergencies. After the wealthy, the first group to purchase automobiles was physicians. Urban doctors initially accounted for more vehicles than all commercial uses, and the country doctor was the first rural inhabitant to adopt the automobile. The November 1905 edition of *The Horseless Age*, a magazine promoting automobiles, printed 89 articles written by doctors describing their experiences with cars. Automobiles could travel more quickly than horse-drawn vehicles and often withstood blizzards and heat waves better than horses.

AUTOMOBILES have done much to improve the world: They have increased mobility, reduced pollution, and improved safety. But the success of the automobile, paralleling the success of capitalism in general, has enraged rather than appeased its enemies. That is why efforts to make the system work more effectively (privatization, tolling, targeted pollution-control strategies, deregulating insurance) are vehemently opposed by the automobile haters.

"Once having tasted the delights of a society in which almost everyone can be a knight, it is hard to go back to being a peasant."



The unfettered, unstructured, *private* nature of automobile travel offends them. Their goal is not to rationalize transportation resources, but to force people out of their cars. But people won't leave their cars easily. As Richard Smith, a Lexington, Kentucky, resident, told researcher Priscilla Lee Denby, "The normal person would not squawk as much, numerically speaking, to have to give up freedom of the press, etc., as freedom to travel. This freedom is his privacy. I think if you took individual cars away, the psychological stress would be incredible."

Economist Kenneth Boulding, quoted in *The Green Lifestyle Handbook*, describes the automobile as a "suit of armor with two hundred horses inside, big enough to make love in." He notes, "Once having tasted the delights of a society in which almost everyone can be a knight, it is hard to go back to being a peasant."

But, the anticar groups realize, if America won't rush into this masochistic policy, how can we ask the rest of the world to forgo economic growth? This won't be easy. "Trouble is," notes auto critic Michael Walsh, writing for the World Watch Institute, "we don't have the political mechanisms to impose pain on citizens in a democratic society." Not yet, anyway. Individual autonomy irritates those who long to mold society to their own tastes. It's not surprising that this paternalistic Daddy wants to take the T-Bird away, for good.

Fred L. Smith is president of the Competitive Enterprise Institute in Washington, D.C. Kathy Kushner, director of environmental policy at the institute, assisted him with this article.

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INSIDE THE SAFETY BELT

DAVE BHANG

How political pressures, media hype, and special-interest lobbying drive auto regulators.

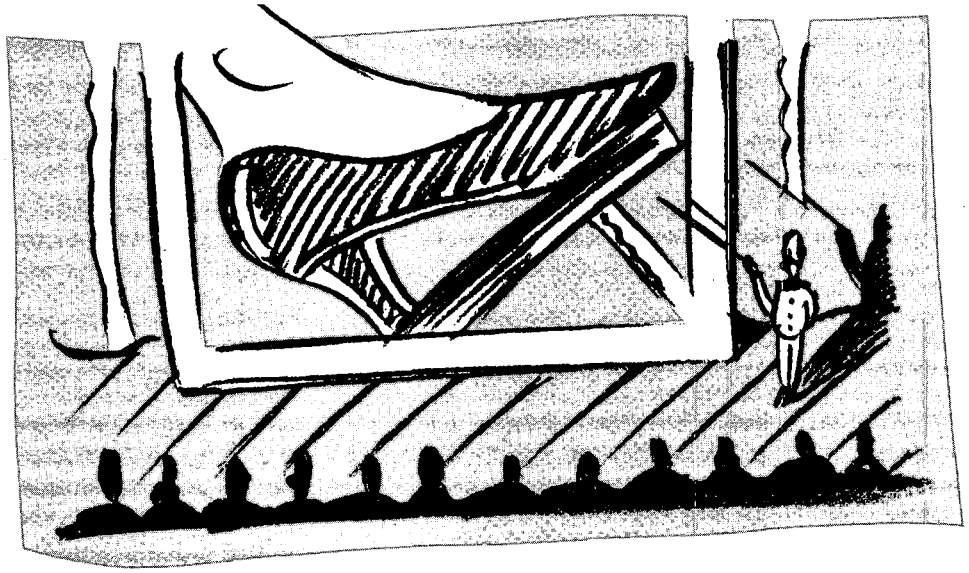
BY THOMAS HARVEY HOLT

Judging by the number of individuals affected per dollar spent, the most intrusive federal agency is probably the National Highway Traffic Safety Administration. With a budget of only $110 million and a staff of only 633 people, NHTSA nevertheless has a tremendous impact because it regulates something that most Americans have in common: their cars. From bumper and headlight standards to fuel economy, NHTSA regulates virtually every feature of the modern automobile. Even the dreaded IRS is less intrusive; taxes are withheld weekly at most, but many people use their cars daily.

NHTSA has one overriding mission: to reduce highway fatalities. According to NHTSA, 45,500 people died on U.S. roads in 1989, which is 2.2 deaths per 100 million vehicle miles traveled—the lowest rate on record, even though Americans traveled a record 2.09 trillion miles. But since some people will inevitably die in automobile accidents, NHTSA's mission requires it to pursue additional regulation continually, despite downward trends in vehicle fatalities.

The temptation is to bash NHTSA for overregulation of the automobile industry. To be sure, NHTSA has initiated some regulatory actions, but to simply blame anonymous bureaucrats would be unfair, especially since NHTSA's staff is known for its high degree of professionalism and objectivity. The choices NHTSA makes in issuing regulations frequently are driven by an "iron triangle" of the sort described by Ronald Reagan: "parts of Congress, the media, and special interest groups," the last primarily including a network of safety groups and organizations funded by the insurance industry and trial lawyers. Safety groups publicize alleged defects and what they consider insufficient regulatory standards—frequently stretching accident statistics beyond good science in the process—creating, through sympathetic news media and members of Congress, immense political pressure for regulation. Outside the automotive enthusiast press, little attention is paid to the incestuous relationship between automotive regulation and the safety lobby.

Where NHTSA is most subject to the whipsaw of safety activists and the media is in its defect investigations. The agency investigates all claims of defects that could cause crashes, injuries, or fatalities. Sometimes the absence of any defect is obvious, but more often an investigation takes at least several months. Once someone lodges a formal complaint alleging a safety defect, NHTSA must investigate. Safety groups have a tremendous political advantage over NHTSA. When the agency carries out a full investigation, officials can only acknowledge that an investigation is under way; to characterize it could be seen as prejudicial. In the meantime, safety groups can score public relations points, call attention to themselves, and foment consumer panic.



People claimed that Audis would suddenly leap forward from an idle, stationary position and that drivers could not stop the cars by braking. After a costly recall and an investigation that ruined the Audi market, NHTSA concluded that drivers had been stepping on the wrong pedal.

No case better illustrates this process than the alleged "sudden acceleration" in 1984–86 Audi 5000s with automatic transmissions. In short, some people claimed that Audis would suddenly leap forward from an idle, stationary position and that drivers were unable to stop the cars by braking. Several fatalities, numerous injuries, and property damage were allegedly linked to this phenomenon. Years before, several other auto makers, including General Motors, had been investigated for the same problem, but Audi drew the most attention and suffered the most damage.

The first allegations against Audi came in a March 19, 1986, press conference held by New York Attorney General Robert Abrams. Abrams appeared before the cameras with representatives of the Center for Auto Safety and the newly organized Audi Victims Network. The press conference made the evening news and many major daily newspapers. Shortly thereafter NHTSA opened a formal investigation. The most severe blow to Audi came that November, when "60 Minutes" aired a segment that included an interview with a woman who said she had run over her son and killed him in a sudden acceleration accident.

On December 23, NHTSA, without yet having found a cause for sudden acceleration, ordered Audi of America to conduct a recall of 1984–86 Audi 5000s. The company began the recall on January 15, 1987, installing an automatic shift lock to prevent drivers from shifting the automatic transmission from park to either reverse or drive without engaging the brakes. It would be NHTSA's most successful recall ever, with approximately 95 percent of the cars recalled and serviced, against a normal rate of 60 percent to 65 percent.

"NHTSA uncharacteristically kept the investigation open while they did a secondary audit of the

DAVE BHANG

completion rate and the effectiveness of the device," says Joe Bennett, spokesman for Audi of America. "What NHTSA had always done...was as soon as a car company announced a recall, they closed the investigation. Ours stayed open for more than a year afterward, and...our market went to hell.

"If they had closed that investigation back in January 1987 when we started the recall, we could have had a flying head start on rebuilding, and it would have shut off one of the major avenues of continuing publicity by our opponents. As long as that investigation was open, they could talk about it...with all kinds of innuendo."

Audi's U.S. sales fell from 74,000 cars in Model Year 1984, the last full year before the story broke, to just 23,000 cars in MY 1989. *Forbes* estimates that Audi lost $1 billion on the sudden acceleration scare, including lost sales and the costs of introducing renamed replacement models ahead of normal schedule and of rebuilding Audi's once impeccable reputation.

NHTSA finally closed its investigation in June 1989, more than three years after the first allegation of a defect and three months after issuing a comprehensive report on sudden acceleration. NHTSA's conclusion: "[Pedal] misapplications were the likely cause of these incidents." In other words, drivers stepped on the gas pedal instead of the brake pedal. The Canadian government, in concluding an earlier investigation, was more blunt; it said "driver error" was the culprit. There was no defect.

"The tearful lady on '60 Minutes' who told about the tragic accident killing her son neglected to say, or if she did it certainly didn't get on the air, that her foot slipped off the brake and onto the gas," Bennett says. "This is what she told the police, and this is what she told the hospital." She lost her lawsuit against Audi. The more than $5 billion in similar lawsuits once pending against the company all have been dismissed.

Even though the bad publicity and NHTSA's abnormally long investigation nearly destroyed Audi's U.S. business, Bennett expresses no bitterness toward the agency. "I think that we have to understand that [NHTSA] is a political organization, it has a political master, and it has to respond politically," he says. "I am not certain that I would do anything different if I were in their shoes. So I don't know that I could fault them, but I do know that the cost to Audi was absolutely tremendous."

Diane Steed, who as NHTSA's administrator during the Reagan years oversaw the Audi investigation, readily acknowledges that there were political considerations in the case. "Because the thing had been so politicized by the safety groups, we hired a team of outside experts to investigate the problem," she says. "Theirs was the definitive study, and it confirmed exactly what the agency had found. There was no mechanical defect." This outside investigation, however, only delayed an official conclusion and prolonged the open season on Audi.

Audi is not unique in having suffered from early safety group propaganda combined with a slow agency response. NHTSA investigated Suzuki in the late 1980s for rollovers of its four-wheel-drive Samurai. As with the Audi 5000, the safety lobby had set the Samurai investigation in motion. *Consumer Reports* published an article on the alleged design defect, and television networks dutifully picked up on the story, with some even broadcasting videotapes of "rollovers" provided by safety groups. No defects ever were found. NHTSA found that many of the rollover accidents had three common elements: young drivers, vehicles driven for less than six months, and the presence of alcohol. Suzuki, like Audi, was a victim of media hysteria fomented by the safety lobby. By the time NHTSA completed its formal investigation, the damage was done. Suzuki redesigned the Samurai to rescue the nameplate.

These cases were foreshadowed by the defect investigation that helped launch NHTSA itself. In *Unsafe at Any Speed,* Ralph Nader charged that the Chevrolet Corvair's suspension was defective in design and that the car was inherently unsafe. Nader's book killed the Corvair. But more important, it established Nader as an automotive safety "expert" and gave the auto-safety movement political clout.

Not only were Ralph Nader and his compadres instrumental in NHTSA's founding in 1966 (it was then called the National Traffic Safety Agency, part of the Commerce Department), many of NHTSA's current programs and a large part of its current regulatory agenda can be traced to NHTSA's iron triangle. According to Clarence Ditlow, executive director of the Center for Auto Safety, fuel-economy standards, passive-restraint requirements, NHTSA's crash-testing program, and minimum standards for crash survivability and tire treadwear all resulted from safety lobby efforts.

Founded in 1970 by Nader, the Center for Auto Safety today remains one of the most influential players in the auto-safety debate. Current NHTSA Administrator Jerry Ralph Curry says of the center and its allies: "They are major players, and you cannot ignore them, [or else] they will cause you all sorts of grief."

Government investigators never found a design defect in the Corvair, but few people know of this blot on Nader's record. And the center's image as an independent consumer crusader also is not quite accurate. The center has received substantial funding from the insurance industry and trial lawyers.

Among the other leading agenda setters for NHTSA are the Institute for Injury Reduction, funded by trial lawyers; the Insurance Institute for Highway Safety, a "research" organization that acts as a government and public-affairs shop for the insurance industry; Public Citizen, another Nader-network group now under the leadership of Carter-era NHTSA Administrator Joan Claybrook; and Advocates for Highway and Auto Safety, another insurance industry front. These groups are frequently cited in the national media as unbiased "experts" on highway safety.

Countering them on the free-market side are only two groups, both small and both, when compared to the insurance/Nader network, perhaps hopelessly outgunned: the Competitive Enterprise Institute, which has been most active on fuel-economy regulation, and the American Motorists Association (formerly Citizens for Rational Traffic Laws), a 15,000-member grassroots organization.

In between are several organizations, such as Mothers Against Drunk Driving and Traffic Safety Now, that focus on alcohol and other driver-related issues. These groups have wide-ranging agendas, primarily focusing on law-enforcement strategies and public information campaigns.

The automotive industry does not take an active role in the safety debate. In part, this is due to corporate timidity. Liability concerns also are an important factor in Detroit's political silence; the strongest arguments against some forms of regulation involve the assertion that the regulation in question would hurt safety. The Big Three (and at a less visible level, foreign auto makers) spring to action only in often vain attempts to halt minor changes in existing regulations or to thwart enactment of the most damaging new ones.

Consequently, safety groups dominate the regulatory debate, with help from the media. This is not to say that NHTSA necessarily takes or will take action in response to safety-group action requests, but the safety lobby nonetheless has a great deal of influence over how NHTSA allots staff time and over what regulatory initiatives it takes.

In part this is the unavoidable result of NHTSA's statutory role as vehicle-safety enforcer. Simply by lodging complaints, the safety lobby can divert large amounts of NHTSA staff time while generating publicity for safety groups and against manufacturers, as the Audi investigation demonstrated.

"Quite a bit of staff time was wasted responding to these people," says Ron DeFore, NHTSA's director of public affairs under Steed. "Anytime Joan Claybrook of Public Citizen, the Center for Auto Safety, or other self-proclaimed consumer advocates came out with some inaccurate report, which was quite often, we spent a great deal of time trying to correct those disinformation campaigns."

Complaints from groups like the Center for Auto Safety also consumed a considerable amount of enforcement staff time, Steed says. "It's not so much that they set the agenda, in the enforcement sense, because most of the time the agency already has received calls from the public or otherwise picked up the problem," she says. "But you have to handle their detailed requests for information, and therefore they create a lot of paperwork that has nothing to do with safety."

The center's penchant for complaint filing has so irritated NHTSA's engineering staff that last year 50 career employees of the Office of Defects Investigations sent an open letter to the center, accusing it of "seriously undermining" investigations by whipping up public hysteria. The letter also charged that the center obtains safety-related complaint data from NHTSA and sells the information to attorneys. The center's Ditlow admits selling this information, but contends the center loses money doing it. "I don't think [the employees] were in touch with reality on that complaint," Ditlow says.

Safety organizations also have influenced more routine agency work by lobbying for mandatory agency reports to Congress, which provide predictable press events. When rural interstate speed limits were raised, the safety lobby extracted a congressional mandate for annual reports on the effects of the 65-mph speed limit. It is far too soon to tell for sure if the change in rural interstate speed limits has had any effect at all on safety, but this has not stopped the Insurance Institute for Highway Safety and others from propagandizing otherwise. The institute claims the 65-mph limit was responsible for as many as 700 additional deaths on rural interstate highways during 1987—88. At a July 1989 congressional hearing, NHTSA Acting Administrator Jeffrey Miller offered only this meek response: "We have no reason to take issue with IIHS's conclusion, but we believe it is still premature to arrive at any definitive conclusion concerning the safety effects."

While filing defect complaints and lobbying for new vehicle safety standards at least have a logical connection to the safety lobby's concerns, its efforts have sometimes forced NHTSA to act in ways that hurt safety.

Passive restraints, an icon to the safety lobby, are one example. As of the 1990 model year, all new cars sold in the United States must come equipped with either airbags or automatic safety belts. This requirement has actually made Ferrari's new supercar, the F40, less safe. Its stiff suspension precluded airbags, so Ferrari had to use conventional automatic shoulder harnesses and manual lapbelts. European F40s, however, come with five-point racing-style harnesses.

"Everybody recognizes that the Ferrari [five-point] seatbelt is a lot safer," Bob Helmuth, director of NHTSA's Office of Vehicle Safety Compliance, told *Autoweek,* "but it requires hooking them up. It's an active system, not a passive one."

The bad news about passive restraints gets worse. "Passive belts often suffer from anchor and buckle locations designed first for automatic operation and second for optimal restraint," *Car and Driver*'s Csaba Csere, an automotive engineer, wrote in the magazine's March 1990 issue. Not only are passive lapbelt buckles frequently located several inches forward of those in active systems, Csere says, "the belt anchor is typically several inches forward of the conventional active belt location. For some drivers in their normal driving positions, this leaves the belt hanging in the air, some inches forward of the driver's shoulder." Those extra inches of play can spell additional and serious injury to occupants in a collision.

The corporate average fuel-economy standard provides another example of conflicting agency missions. Several studies, including ones by NHTSA and, earlier, Robert Crandall of the Brookings Institution and John Graham of the Harvard School of Public Health, have documented the negative safety impact of higher fuel-economy standards. Even Joan Claybrook, in her parting report as administrator in 1981, warned that "the risk of death and serious injury will increase markedly" as a result of "the general downsizing of all passenger cars and light trucks."

Until recently, NHTSA refused even to acknowledge that there could be a safety tradeoff for a higher fuel-economy standard, primarily because NHTSA did not look beyond year-to-year effects of CAFE in the 1980s.

"In any given year-to-year look, I really don't think that safety was compromised," says Steed. "There wasn't much

effect on safety, and there wasn't much effect on fuel economy." Dramatically higher CAFE levels, such as those now under consideration, she adds, definitely would have an adverse safety impact.

CAFE did not really affect manufacturers until the end of the Reagan administration, which exercised its option to lower the standard from the statutory 27.5 miles per gallon to 26 mpg for Model Years 1986–88, but raised it to 26.5 mpg for MY 1989. Transportation Secretary Samuel Skinner boosted it to 27.5 mpg for MY 1990, and a Senate committee, backed by the Center for Auto Safety, recently approved a bill that eventually would raise each manufacturer's CAFE requirement by a draconian 40 percent. While NHTSA Administrator Curry says he would oppose a "quantum jump" in CAFE on safety and technical grounds, he says, "I think CAFE will continue to go up incrementally."

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Higher fuel-economy standards are not all that is in store under the new NHTSA regime. Under Steed, the agency moved away from vehicle regulation and focused its efforts on altering unsafe driver behavior, with tangible results on seatbelt use and drunk driving. The Bush administration is in a more proregulation mood.

"We put out more regulations in the last 12 months than have been put out [in any year] in the history of the agency, with the exception of 1979 under Joan Claybrook," Curry says. "We came very close to that. We will beat her record this year." Curry attributes this burst of regulatory activity to a "backlog of safety regulations" and the changing vehicle mix, especially the increasing use of minivans and light trucks by families.

An internal agency plan for 1990 through 1992 includes numerous new vehicle standards, many of which originated with safety groups, as well as several law-enforcement efforts that should be of great concern to those who care about individual rights.

In a move strongly supported by antidrunk-driving organizations, Curry will probably ask states to implement administrative (instant) license-suspension laws for suspected drunk drivers. Someone who is never found guilty of drunk driving could suffer the same penalties as someone who is convicted. Such an approach is particularly worrisome in rural areas, where losing driving privileges, and thus transportation to work, can mean losing one's job as well. Curry says he favors flexibility in punishing first offenders, but it is not clear how this could be reconciled with the inflexibility of administrative suspension.

Curry also seeks to achieve 70-percent seatbelt usage by 1992, up from just under 50 percent today. He advocates primary enforcement of seatbelt use laws, meaning motorists could be stopped and ticketed for seatbelt offenses only; most states with seatbelt laws only write tickets for failure to wear a seatbelt in conjunction with other offenses. Puerto Rico already has a primary-enforcement law, and Curry sees it as a national model.

Simply by lodging complaints, the safety lobby can divert large amounts of NHTSA staff time while generating publicity for safety groups and against manufacturers. NHTSA's mandate requires it to respond to the flood of paperwork.

As for vehicle standards, new side-impact regulations for light trucks and vans are in the works. The agency also will seek additional regulations for rollover standards, extension of passive-restraint requirements to light trucks and vans, and, possibly, a return of 5-mph bumper standards. A more stringent bumper standard would, as NHTSA reasoned when it eased it to 2.5 mph in 1982, add weight to most cars and thus impair efforts to achieve better fuel economy.

Many of these efforts are just one step ahead of safety groups and their friends in Congress. The word in Washington is that Curry has his sights on a Cabinet-level appointment, so he does not wish to anger anyone on Capitol Hill.

Only time will tell if the rumors about Curry's ambitions are true. But one thing is sure: Under the "kinder, gentler" Bush administration, NHTSA can be expected to be a lot less kind and gentle toward cars and drivers. ■

Thomas Harvey Holt is assistant editorial page editor of the Richmond Times-Dispatch.

GOING MOBILE

On-road emissions tests promise a cheap and effective way to clean up auto pollution.

BY RICK HENDERSON

AT A BUSY INTERSECTION, AN ORDINARY-LOOKING VAN waits by the roadside. Inside, two people watch a series of gauges and a video monitor. A passing car grabs their attention. They radio ahead to a waiting policeman, who motions the car to the curb. The policeman informs the driver that he is violating the law.

No, this isn't "Mission: Impossible." It's a test conducted in Los Angeles to monitor auto pollution. The driver in question was violating state emissions regulations, but the policeman simply asked him to open his hood and then checked the car's pollution-control equipment to recommend repairs.

The same method, however, could be used to enforce emissions standards. It would be a nonintrusive, inexpensive way to tackle auto pollution across the country. The researchers who developed this mobile monitoring system say it accurately identifies polluting cars. Widespread use of their system, coupled with measures requiring polluters to tune up their cars, could replace vehicle smog inspections and dramatically reduce the airborne pollutants released by automobiles.

Despite its advantages—and in a sense, because of them—the system has been largely ignored by environmental groups and regulators, who prefer to pursue their own agendas. Environmental advocates who want to influence policy have developed their own pet projects and seem blind to alternative approaches, no matter how promising. Bureaucrats are more interested in maintaining and expanding their power than in addressing environmental problems. A viable solution has gotten lost in the shuffle.

Donald Stedman, a chemistry professor at the University of Denver, decided nearly two decades ago that auto-pollution testing should monitor cars on the road, not just those hooked up to diagnostic equipment in test garages. He has designed a portable sensing device to rapidly check cars and identify gross polluters. Along with other University of Denver researchers, Stedman has conducted more than 250,000 readings of cars in motion.

Stedman and his colleagues can set up a mobile testing unit on a freeway exit ramp or anywhere else it can monitor one lane of traffic at a time. An infrared sensor reads the emissions from each vehicle while a remote camera photographs the car's license plate. Within a few seconds, you have a photograph/readout of the car and its pollution level. The machine can test up to 1,500 cars an hour, unlike stationary garage tests, which take at least five minutes each. Stedman says half a dozen of the testing units, costing about $50,000 each, and a couple of vans could effectively monitor all the cars in a city the size of Denver.

THE TESTS STEDMAN'S TEAM HAS CONDUCTED SHATTER a number of myths about auto pollution. For example, the prevailing wisdom is that all cars pollute, and that *every* old car pollutes more than *any* new one. Wrong, says Stedman.

"Seventy percent of the cars we test everywhere are as clean as me breathing," he says. He adds that a properly tuned car should emit less than 1 percent carbon monoxide under normal driving conditions (California's standard for new cars) and no more than 2 percent to 3 percent under the most severe engine strain. Studies conducted by the California Air Resources Board (ARB) and the Auto Club of Southern California basically accept that conclusion. But they differ with each other and with Stedman on what to do about car emissions.

Consistently, the dirtiest cars (classified as "gross polluters") identified by Stedman's mobile sensing unit emit at least 4 percent carbon monoxide. Stedman's data show that three-quarters of all cars built before 1975 (the first year U.S. cars were equipped with catalytic converters) run cleanly by his standards for a properly tuned vehicle. As the fleet gets newer, cars do become cleaner. Gross polluters represent 17 percent of 1975–79 model-year cars, 7 percent of 1981s and '82s, and only 0.3 percent of the 1988s.

But consider those numbers again: Three-quarters of the cars with virtually no pollution controls run cleanly. In fact, Stedman has found that, because drivers get rid of older cars in bad mechanical condition, the pollution caused by the cars in a given model year levels off after about 12 years. His tests show that cars from the '50s and '60s at classic auto shows—again, with no emission controls—tend to run as cleanly as new models just off the assembly line.

James Ortner, chief transportation planner for the Auto Club of Southern California and a planning professor at the University of Southern California, agrees with Stedman that properly maintained cars pose little, if any, pollution-related health threat.

But badly tuned cars, regardless of age, can be terrible polluters. Biochemist Gary Bishop, one of Stedman's colleagues, recalls a trip Stedman made to Capitol Hill, where he tested cars at the Rayburn Senate Office Building. One 1987 taxicab registered 13 percent carbon monoxide. "The guy drives 35,000 miles a year," Bishop says. "Thirteen percent at 35,000 miles [produces] six and one-half tons of CO. He was [also] losing 26 percent on his gas mileage. One gallon in four—right out the tailpipe." Mechanics found a defective fuel injector that cost less than $200 to repair; the car then emitted less than 1 percent carebon monoxide.

The possibility of such dramatic gains at relatively low cost suggests that designing cleaner cars is not the most effective way to control emissions. Since many automotive analysts believe that designers can't make cars much cleaner without making them a lot more expensive, policies that encourage drivers to clean up what they own now make more sense.

The Denver team has also destroyed another myth about auto pollution: that it's distributed along a smooth bell curve. Stedman's team has consistently found that fewer than 10 percent of the cars on the road cause 50 percent of the pollution. But federal and state officials craft policies that treat pollution as if it were normally distributed.

Gary Bishop says that Environmental Protection Agency tests in Denver show that the "average" (mean) car puts out 50 grams of carbon monoxide per mile. But the median is closer to 20 grams per mile. So tightening emissions standards for all drivers is much less effective at reducing pollution than targeting the gratuitous smoggers at the far end of the curve.

The Denver findings roughly match those conducted by the Auto Club. Ortner says that cars built since 1980, which have electronic exhaust catalysts, do little damage to the atmosphere as long as they're maintained at manufacturers' specifications. Both Ortner and Stedman say there's no need to impose tougher emissions standards on newer cars.

SINCE THE 1970S, FEDERAL AND STATE AUTHORITIES have rightly considered auto pollution a serious health concern. The EPA reports that more than five dozen communities in 35 states currently oversee or plan to institute emissions-certification programs for automobiles. California's auto-emissions standards have been tougher than federal standards since 1962.

And real improvements have occurred. The EPA says 1990-model cars run 96-percent cleaner than their 1970 counterparts. The Clean Air Act of 1990 will attempt to reduce future auto emissions by another 50 percent to 75 percent.

But regulation has been less effective at controlling emissions from cars on the road

Have van will travel: Donald Stedman sets up a mobile testing unit on a Denver street. His pollution checks are fast, accurate, and inexpensive to administer.

COURTESY OF UNIVERSITY OF DENVER

in actual driving conditions. Although cars may leave the assembly line cleaner than ever, cars in use still pollute. California's Air Resources Board says motor vehicles cause around 60 percent of the air pollution in the Los Angeles Basin. But Stedman, Ortner, and other researchers have assailed the smog-inspection programs designed to preserve air quality. A program featuring mobile on-road testing could greatly reduce auto pollution—for a fraction of what the alternatives cost.

The Denver researchers have conducted tests in half a dozen cities in the United States and Canada. Twice in the past 12 months they set up voluntary programs with employees of Amoco and US West (the regional telephone company) to demonstrate how a pilot project might work.

> Dave Liggett of US West says that when the company tested its employees' cars, "Many of them drove by the sensor and asked when the test started. They didn't realize they had already been tested."

Dave Liggett, a spokesman for US West, gives the mobile tests high marks. "We told our employees that the test was very simple," he says. "They would simply drive by a sensor, and in a few seconds they would get a readout of their car. Many of them drove by, went to the stopping point, and then asked when the test started. They didn't realize they had already been tested!"

For a citywide program, motorists would send in an inspection fee equal to the normal smog-test charge (Stedman calls it a "pollution insurance" premium) along with their annual car registration forms. "We would spend the same amount of money on pollution control," Stedman says, "but get some use from those dollars." Assuming 9 out of 10 cars barely pollute, and given that Stedman's tests are inexpensive to administer (about 50 cents each), the program would be self-financing. (California's smog-test program, by contrast, receives about $250 million in state subsidies each year.)

When a random test identified a gross polluter, that driver would receive a notice from the city government requiring him to either pay a fine or get a tune-up. Stedman even suggests that the city could use the program's "insurance fund" to issue "cleanup vouchers" to help pay for the repairs. Once a driver had been identified, additional violations could jeopardize his vehicle registration. Flagrant violators could have their cars impounded until they completed the necessary repairs. The tests aren't meant to be a type of pollution tax, but instead to get drivers to fix and properly maintain their cars.

The Auto Club's Ortner recommends a somewhat similar program using different technology. Newer cars have on-board diagnostic equipment to help mechanics identify problems. Ortner suggests that drivers can have mechanics connect their cars to computers that will give a detailed readout of emissions and of the mechanical condition of the pollution-control equipment. Drivers would send the readout to the Department of Motor Vehicles at registration time. As long as the car runs at manufacturers' specifications, the driver would avoid pollution fines.

Stedman says his mobile tests would be less complicated and much easier to administer. Ortner notes, however, that Stedman's test does not measure nitrous oxide—the major component of smog in Los Angeles, Milwaukee, and elsewhere. But Stedman says it's possible to redesign the equipment to measure other types of pollutants. Cities confronted with a variety of emissions problems could then benefit from mobile on-road testing.

Mobile tests also allow continuing improvement in air quality once today's grossest polluters clean up. After tuning up the cars that emit more than 4 percent carbon monodioxide, Stedman says, you could go after the next dirtiest cars; the process could continue until virtually every car operated cleanly.

ALTHOUGH ITS VIRTUES ARE HARD TO DENY, STEDMAN'S approach has not caught on. Governments, businesspeople, and mainstream environmental groups concerned about auto pollution have instead focused on alternative fuels, old-car buybacks, and periodic smog inspections. Each of these programs promises smaller gains at greater costs.

When President Bush released his clean air plan last summer, he called the clean-fuels component "perhaps the most innovative and far-reaching" part of the package. Chief White House Counsel C. Boyden Gray leads the call to mandate the use of alternative fuels.

But a study published last year by Anthony Woodlief of the Competitive Enterprise Institute found that Bush's clean-fuels package would penalize consumers and could threaten public health. Woodlief contends that alternative fuels should be considered "clean" only when they significantly reduce all automotive pollutants. Yet among the favorites of the clean-fuel lobby are alternatives that tackle only a few pollutants and have a negligible effect on overall emissions. They are also more expensive to produce and reduce gasoline mileage.

Still, any fuel that lowers carbon monoxide and ozone formation, regardless of its impact on other emissions, usually earns the "clean" designation. These fuels take two forms: new formulations of gasoline and mixtures of gasoline with other fuels. The best-known substitute fuels are methanol and ethanol, oxygenated substances that need less air to combust than gasoline does.

Methanol is not quite the planet's best friend, however. Produced mainly from coal and natural gas, methanol is highly corrosive and highly toxic: A jigger or so would blind or perhaps kill you. Unlike gasoline, methanol is water soluble, so even a minor methanol spill could wipe out a city's drinking water supply. And while the use of methanol can reduce carbon

monoxide and hydrocarbon pollution, producing methanol from coal causes more pollution than burning methanol eliminates. The fuel's corrosive properties also mean that methanol-fueled vehicles need corrosion-resistant equipment costing as much as $2,000.

A form of alcohol usually made from corn, ethanol attracts great interest in the Farm Belt. But like methanol, ethanol cuts some types of emissions while increasing others. A study released in May, authored by former ARB chief Thomas C. Austin, cast serious doubts on ethanol's value. Austin concluded that the standard "gasohol" mix of 10 percent ethanol/90 percent gasoline could cut carbon monoxide emissions by 25 percent but that hydrocarbons would rise as much as 50 percent and nitrous oxides as much as 15 percent.

Moreover, ethanol is not economically viable. It receives a 60-cent-per-gallon federal subsidy and numerous other tax breaks to encourage its production. Since gasohol is more expensive to produce than regular gasoline, Austin said, "motorists will end up paying more for dirtier air."

Ethanol's benefits to elected officials, however, are unquestioned. Archer-Daniels-Midland Co., chief sponsor of "This Week With David Brinkley" and other Sunday public-affairs shows, produces nearly three-quarters of the nation's ethanol and hands out tens of thousands of dollars in strategic political contributions. ADM receives more than a billion dollars in federal subsidies and other indirect government favors each year. In early May, Senate Minority Leader Bob Dole of Kansas introduced an amendment to the Clean Air Act that would mandate ethanol use in the nine smoggiest U.S. cities by 1994. A *Wall Street Journal* editorial reported that the ADM Foundation had recently given $160,000 to Dole's family foundation.

Some dedicated environmentalists recognize that oxygenated fuels have been oversold. A sympathetic article in the January 1990 *Consumer Reports* analyzing alternative fuels admitted that "oxygenates decrease the release of carbon monoxide [but] can increase smog formation. [They] make most sense in areas with carbon-monoxide problems but little smog." Clean fuels may soon be required, but while they will increase fuel prices, they will have little impact in places like Los Angeles and Milwaukee.

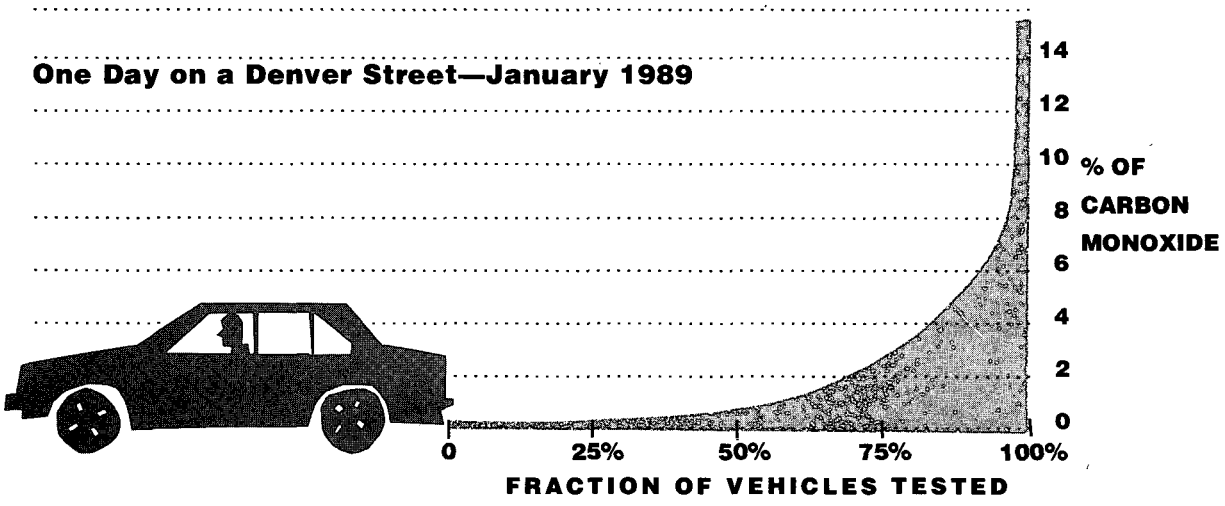
So do alternative fuels have any use? Reformulated gasoline looks promising. Last fall, Atlantic Richfield Co. introduced EC-1 to replace its regular leaded gasoline in California. Company officials say that substituting EC-1 for leaded fuel in pre-1975 cars would reduce volatile organic compounds by about 15 percent in the Los Angeles Basin. Last spring, Shell began offering a premium unleaded gasoline that reduces emissions from gas fumes. While these formulas do cost a few cents more per gallon to produce, state officials and representatives from environmental groups have praised them.

Other alternatives to gasoline as a motor fuel include electricity, natural gas, and hydrogen. But few working models or fuel-distribution sites exist. Without huge investments to manufacture vehicles and facilities, reformulated gasoline seems the best bet to become the "clean" fuel of the 1990s.

What effect would clean fuels have on auto pollution? Stedman says that if a car runs dirty because of mechanical failure, no formulation of fuel will clean it up. "The federal government's own data base [recommending clean fuels] shows that tuning up a few dirty cars would be twice as effective as oxygenating the whole fleet," he says. In a February *Wall Street Journal* op-ed, Stedman reported that the EPA tested 84 cars for its clean-fuels project; four dirty cars caused 85 percent of their pollution. Simply tuning those four cars reduced overall carbon monoxide emissions by 80 percent without using any oxygenated fuels.

BUYBACK PROGRAMS PAY OWNERS TO RETIRE OLDER CARS. Union Oil of California (Unocal) recently introduced a program in California that would pay 7,000 drivers $700 each for pre-1971 cars. These programs, while good public-relations tools, have only minor environmental impact. Bill Sessa, a spokesman for the ARB, calls Unocal's program "a modest but welcome contribution," but no substitute for developing cleaner fuels. The Natural Resources Defense Council, the Coalition for Clean Air, and other environmental groups have responded similarly.

The Auto Club's Ortner isn't too keen on the Unocal buyback program. "Pre-'71 cars aren't the problem," he says.



Tests conducted by University of Denver researchers show that most cars barely pollute. Nearly two-thirds of them ran cleanly; the dirtiest 10% caused more than 50% of all emissions.

DEPARTMENT OF CHEMISTRY, UNIVERSITY OF DENVER

"When the equipment fails on the 1975–79 model cars, they pollute worse than older cars." Stedman is even more skeptical about the program. He says the EPA computer model for estimating auto pollution "assumes that every '71 car is dirtier than every '72 car, and so on. There's no evidence that '71 and older cars are any dirtier than '75. None."

EPA-approved tailpipe tests are the teeth enforcing air-quality standards in the 35 states with emissions-certification programs. But they have little bite. For one thing, states require them infrequently. Even in Los Angeles, the dirtiest American city, cars must pass smog tests only once every two years. An initially clean car that later falls short of the standard (for whatever reason) can pollute for months without being identified. California officials conduct random roadside emissions tests—but only to collect data, not to punish illegal polluters.

The Air Resources Board commissioned a study of on-road smog testing but placed Stedman under a "gag order," preventing him from discussing its results before publication. Sources say the study confirms research the ARB would rather not air.

Furthermore, current EPA-approved smog tests are inaccurate and too easy to pass. The standard tailpipe test to measure idling cars "is probably one of the easiest tests in the world to pass," says biochemist Gary Bishop. "Having a car pass at idle may have nothing at all to do with how that car performs on the road." He contends that marginally functioning emissions-control equipment that doesn't work on the highway can still get by most idle tests.

Finally, while 1 in 10 cars causes most pollution, everyone has to put up with the inconvenience—time and trouble—of taking the standard smog test. "The pollution-control standards assume that drivers are guilty until proved innocent," Stedman says. "That's not the way it's supposed to work."

Mobile on-road pollution checks, however, are a nightmare for regulators: They work, they're cheap, and they don't require an enormous bureaucracy to administer. New technologies offer a chance to solve once-insurmountable problems, a scary prospect for regulatory agencies that want to expand their fiefdoms. Kent Jeffreys, a policy analyst for the Heritage Foundation who studies environmental issues, says regulatory agencies conform to the standard public-choice formula: "If they solve the problem, then they're out of a job."

Larry Arnn, president of the Claremont Institute and adviser to California's South Coast Air Quality Management District (AQMD), suggests that environmental regulators have become little more than central planners. "The AQMD constantly says it's a friend of business," Arnn says, "because it comes up with recommendations that are not only better for the environment but also are cheaper processes that produce better products. The AQMD actually believes it can allocate capital more efficiently than the market can. It becomes very easy for them to believe there should be no limits on their power." Decentralized, simple alternatives such as mobile testing would reduce agency power.

Officially, the ARB is committed to biennial smog tests, clean fuels, and stricter standards for future cars. Responding to the suggestion that there might be other ways to control auto emissions, ARB spokesman Bill Sessa asserts: "Our programs are accepted nationally. Mobile testing isn't a substitute for what we do now. There is no controversy about these issues."

Well, there is a controversy, and it's being aired inside the ARB. A study of Stedman's methods commissioned by the board is scheduled to be published this summer. Stedman says an ARB "gag order" forbids him to discuss the results of the study before publication. Sources say the study reinforces earlier findings by the Denver researchers that the ARB would rather not air.

It's also tough to talk to the people who actually conduct research for the ARB. An ARB department head says the board discourages staff members from talking to the press. Department heads will grant interviews, but only with clearance from the public relations department. (In other words, if the ARB thinks you're hostile, you can't get past the PR department.)

Stedman also contends the EPA is frantic to delete a reference to mobile on-road emissions tests from the Clean Air Act. The agency is worried about ceding power to the states, he says. "Allowing mobile on-road testing would give state authorities more accurate information. It would also make them think about how they can clean up dirty cars. There's nothing in the enabling legislation of the EPA that requires [it] to think. Regulate, yes; think, no."

The version of the Clean Air Act passed by the House of Representatives mentions mobile on-road testing; the Senate bill doesn't. "One eight-word phrase will do more to clean the atmosphere than the rest of that 700-page document," Stedman says. "But it may not survive the [House-Senate] conference."

Auto industry officials warn that we may be reaching the design limits on clean, fuel-efficient engines. During the past two decades, technological improvements have greatly increased safety and fuel economy, but that same technology makes cars more expensive. As a result, the auto fleet is getting older: In 1975, the average age of a car in the United States was 6 years; now, it's 7.6 years. Many drivers can't afford to take advantage of the benefits new technologies provide.

Turf wars between bureaucrats and research scientists threaten to impede the development of effective pollution control. But simple and elegant systems like mobile emissions testing divide people who want to solve problems from those who would rather carve out bigger chunks of authority. Stedman laughs about these internal squabbles. "I can polarize more people against their own departments than you can possibly imagine," he chuckles. "It's an incredible talent." ◼

Rick Henderson is researcher/reporter for REASON.

ELECTRIC AVENUE

BY T.A. HEPPENHEIMER

Will we ever be able to deal with the problems of traffic congestion and automobile pollution? Mass transit is an often-proposed palliative, but cities that have built such systems—San Francisco, Atlanta, Washington, D.C.—have found that their subways bring no more than modest improvement at exorbitant cost. What's more, people like the cars they currently drive and show little interest in the 100-mpg wonders that occasionally appear in the news.

But even if cars and roadways do not change radically, new technologies can help us make better use of them. Several approaches would allow today's roads to carry much more traffic while producing much less pollution.

In Europe and Great Britain, several cities are installing networks of road-mounted sensors linked to a central station. The station interprets the data to determine which routes are less congested and transmits these conclusions to dashboard navigational systems that feature video displays of city maps, showing the drivers alternate routes. These same displays can give a driver directions to a destination or to the nearest gas station. They represent a classic instance of using electronics to present useful information to people. Moreover, the drivers who install such systems would immediately have distinct advantages over those who do not.

But other auto technologies offer little advantage to the purchaser, although they promise to reduce air pollution and congestion. An example is the electric-powered Impact automobile, of which General Motors has developed a working prototype. On paper, electric cars look great. They produce virtually no pollution when on the road. The pollution comes instead from the electric power plants, where emissions can be more easily controlled. And electric cars are small in size, easing problems of parking.

For most drivers, however, these points would be outweighed by a more immediate one: The electric car's cents-per-mile cost of operation would be twice that of a conventional auto. The reason is that such a car needs a battery pack, which is repeatedly charged and discharged. The pack wears out after about 20,000 miles and must be replaced—at a cost of $1,500. Long-lived batteries would obviously help, but they are still in the labs and far from ready for the roads.

The Impact's range is only 120 miles, and it requires a six-hour recharge. But this limitation merely makes it unsuitable for long trips; for daily drives to work or shopping, it could serve quite well. How, then, can we get buyers to overlook its high cost of operation?

The answer could lie in giving these cars preferential use on diamond lanes of freeways and on toll roads. Diamond lanes, often called high-occupancy-vehicle (HOV) lanes, are set aside for use by buses, car pools, and motorcycles. Traffic on them usually flows freely, even when the adjacent lanes are jammed at the peak of rush hour. Such lanes are particularly common in Southern California and the Washington, D.C., area, and other cities are likely to follow. Indeed, it is quite possible that new construction will be limited to diamond lanes adjacent to existing routes.

It would be a straightforward matter to encourage the use of electric cars by giving them special license plates and granting them free use of diamond lanes. Much the same would be possible with toll roads and with routes that include toll bridges or tunnels, which are widespread around New York City. A round trip into that city from New Jersey can easily cost $8.00. But electric cars might qualify for free or greatly reduced tolls, giving them further advantage.

This same strategy could work with what might be the ultimate solution to congestion: car trains. These amount to tailgating made legal. All the cars in a train would carry on-board radar linked to the brakes and accelerator, allowing them to follow quite closely while maintaining the fast reactions that would let them brake in time. The drivers would still steer, keeping their cars in the lanes, but the radar system would act as a very capable type of cruise control, maintaining speed and distance. Companies working on this concept include Radar Control Systems of San Diego and Vehicle Radar Safety Systems of Mt. Clemens, Michigan. Proponents of car trains declare that they would permit today's freeways to carry up to five times as many cars as at present, at full speed.

The problem is that these benefits would not be seen until large numbers of cars had such radars. Unlike car stereos or air conditioning, radar systems wouldn't offer immediate advantages to the first buyers, who would still rather be stuck in old-style traffic. Rather, like telephones or fax machines, the radars' advantages would depend on how many *other* people had also bought them. (Economists say such products have "network externalities.")

But if radar-equipped cars were also to carry special plates and to have preferential use of diamond lanes and toll routes, the picture would be quite different. As with electric autos, such advantages could provide the opening wedge that would launch a market for the radar equipment.

Such privileges, of course, would last only until the diamond lanes became crowded with the new-type cars. But by then they would exist in large numbers, and the auto and electronics industries would have gained extensive experience in their manufacture and use. Radar equipment might become standard on new cars, with more and more freeway lanes set aside for the car trains. Through such strategies, it might be possible to make the transition to a future world, where we continue to rely on our existing roads but use them with much greater effectiveness. ■

Contributing Editor T.A. Heppenheimer is a widely published science and technology writer.

MASSACHUSETTS MISCHIEF

BY JEFF JACOBY

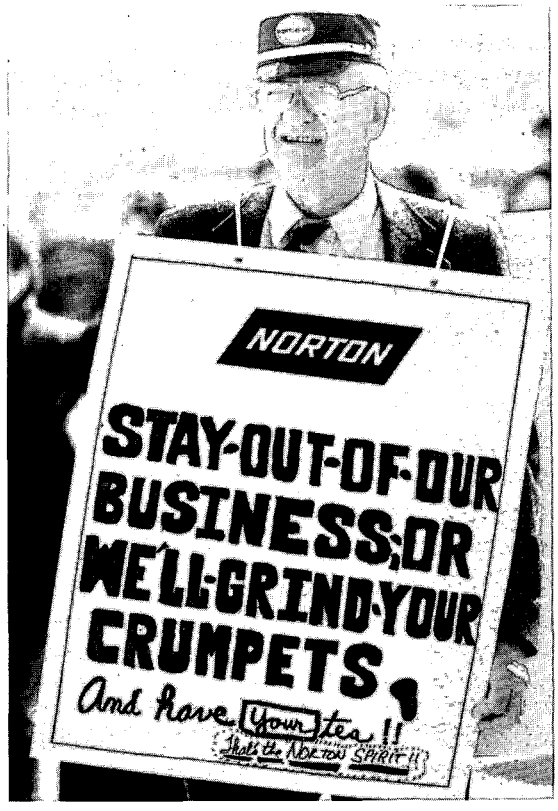
Imagine Franz Kafka and Lewis Carroll teaming up as a pair of business writers, their story topped with an O. Henry kicker, and spiced up with a Chaucer-like subtheme of cuckolds and jilted suitors. Lace it with xenophobia and cheap political grandstanding.

Set the whole thing in Worcester, Massachusetts.

And add a laugh track.

Not since Gov. Michael Dukakis ran for president in 1988 had the Massachusetts Establishment found so popular a cause to rally around.

On March 15, 1990, the British conglomerate BTR announced its intention to take over Norton Co., a leading manufacturer of abrasives. The only company on earth to call Worcester, Massachusetts, its world headquarters, Norton employed 16,000 workers around the globe, 3,000 of them in Massachusetts. Takeover quests are always big news locally, but this one just exploded. Anyone could have predicted the spit would hit the fan in Worcester, but who'd have imagined it would ultimately spatter Beacon Hill, Capitol Hill, and Precinct 19 of the New York Police Department?



Norton employee Irv Holdash joins the orgy of Brit bashing that greeted BTR's takeover attempt.

BTR offered $75 a share for Norton stock, which was then trading at around $58. To calm at the outset any fears that BTR's intentions were malign, Chief Executive Officer John Cahill set down on paper a vow that "no Norton plants in the commonwealth [of Massachusetts] will be closed as a result of the transaction, and Norton's corporate headquarters will remain in Worcester."

The market was thrilled with BTR's offer. Overnight, the price of Norton stock jumped nearly 30 percent; in one day, more than 5 million shares were traded.

But Norton's officers, starting with Chairman John Nelson, were not so thrilled. After all, new owners would mean new management, and at the moment Norton's *old* management was being paid a combined salary of nearly $6 million a year. Nelson himself was making more than $13,800 a week. *Not* including perks. And now the British wanted to come in and ruin everything?

Hey, Nelson might have let his company's operating margins decline for the past three years while its stock price and profit margins remained flat; he might have invested precious little in new plant and equipment; hell, he might even have let Norton become what Finance Professor John Pound of Harvard University called "an overconservative company...failing to exploit available business opportunities"—but nobody ever said he was *crazy*.

And so it was war.

To the mayor of Worcester went the honor of sounding the first note of hysteria. "It absolutely scares me," quoth Jordan Levy, dismissing as worthless BTR's written pledge not to tamper with Norton's Massachusetts operations. "Once a takeover like this goes through, there's nothing to preclude the company from pulling out of the city."

Next on line was Worcester's city manager. Norton was "a major corporate citizen," he said, underlining how "concerned" everyone should be at the "potential threat" the Britons' entry into Worcester would pose.

Norton's former chairman blackly intoned: "I've heard rumors that [BTR] may not be the kind of company that one would choose to take over Norton." Oooh, *shiver*.

But this was all kind of vague. Nelson and the Norton officers, conspiring in the War Room on the eighth floor of the Peoples Bank building, knew they needed something more nasty-sounding, something grim and painful (and preferably unprovable), something that would prevent any rational discussion of their own record or of the benefits of a BTR takeover.

That meant doing to BTR what Shakespeare did to King Richard III. Now, negative campaigning is a subject on which Bay Staters have a certain level of sophistication, but even John (Attack Video) Sasso must have marveled at the ease with which BTR was turned into a "poisonous hunchback'd toad," a "lump of foul deformity."

Within *one day* of the BTR announcement, the *Worcester Telegram & Gazette* was quoting:

- anonymous veterans of BTR takeovers with dire warnings that BTR was "heartless";

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• Norton workers who had been primed to be frightened on cue ("I'm only 30 years old. Of course I'm concerned....I've got a house. I've got a mortgage. I've got children."); and

• politicians ready to scramble the B-1s against what Kevin O'Sullivan, a Democratic state representative from Worcester, unblushingly called "the second coming of the British invasion in Massachusetts."

Another Worcester-area legislator, state Sen. John Houston, thundered that "if the law does not give sufficient protection [from unsolicited takeovers], then we will have to see if there is any other legislation that should be passed to help Norton."

By the end of Day 2, a bunch of Norton workers, galvanized by management's spooky hints that a BTR acquisition would mean massive layoffs, had formed a "Grassroots Action Committee" to fight for their bosses. By the end of Day 3, a crowd of 4,000 had massed on Worcester Common to torch a British flag, sing "God Bless America," and wave signs reading "John Bull Go Home," "Ban the Brits," and "Don't Sell Out America."

"You're doing just the right thing," yelled Milton Higgins, a former Norton chairman, as the aroma of barbecued Union Jack wafted across the green.

Well before Norton's scheduled April 26 annual meeting, 64 percent of the company's stock had been tendered to BTR. The institutional investors who held three-fourths of Norton's shares knew where their fiduciary interest lay, and in any state where some semblance of free-market economics was allowed to operate, BTR couldn't have lost. It would have nominated its own candidates for the board of directors, whipped Nelson's crew in a proxy fight, and brought Norton into the 1990s.

But this is Massachusetts, where the laws of Nature and of Nature's God don't always work the way they should.

On Beacon Hill, Sen. Houston made good his threat. Bellowing that BTR would "tear the heart out of...Massachusetts," he and the rest of the Worcester delegation came up with a novel anti-BTR plan—a law mandating staggered boards of directors for all public companies in the state. That would ensure that an incumbent slate of directors could not be voted out in one fell swoop, making it impossible for a would-be acquirer—*any* would-be acquirer—to gain immediate control.

Financial experts and securities analysts urgently warned that the measure would trample shareholder rights, entrench inefficient management, and make Massachusetts, whose economic miracle was already turning to

By fighting off the takeover bid, Norton Chairman John Nelson saved his $13,800-a-week salary.

mush, that much less attractive to any outside investor. The whole scheme, said a Dean Witter Reynolds vice president with a conciseness that got right to the heart of the matter, was "an absurdity."

But as Gov. Dukakis, in a spasm of unaccounted-for honesty, pointed out, nobody was interested in issues of "soundness." This was a lynchin', see, and the politicians meant to enjoy themselves.

Remember: It had been two years since the political power structure of Massachusetts had enjoyed the pleasure of abasing itself *en masse* in the service of a grotesque but popular cause. The last such occasion—the Dukakis presidential campaign—ended in tears and ashes. This time, things would be different.

In just two hours on April 17, the bill was rushed through both houses of a legislature that hadn't managed to deal with a runaway state fiscal crisis in two *years*. There was, as the *Boston Herald* editorialized, "no floor debate, no roll call, no conference committee, no deliberation, no waiting."

The next morning, Dukakis sped with the bill to Worcester. There, surrounded by more than 1,000 Norton employees, he signed it into law, calling special attention to the date. It was April 18, the anniversary of Paul Revere's (botched) nocturnal ride to Lexington and Concord.

"Two hundred and fifteen years later," he cried, "another war of independence—another attempt by a foreign power to interfere with or attempt to shape our destiny—215 years later, and we won it again!"

Pathetic, fatuous, and mawkish? Oh, yes. But that wasn't the worst of it. As grown men winced in pain, he began...reciting...Longfellow:

Listen, my children, and you shall hear
Of the midnight ride of Paul Revere.

It was kind of astonishing, actually: Was *this* the governor who'd vetoed a law requiring teachers to lead schoolchildren in the Pledge of Allegiance?

On the eighteenth of April in Seventy-five
Hardly a man is now alive
Who remembers that famous day and year....

Not all the action took place in Massachusetts. In New York, Norton hired a private detective to dig up dirt on BTR. That plan went slightly awry. A BTR executive got a phone call from one "Peter Riordan," who identified himself as a detective with the New York Police Department's 19th precinct and said he was trying to track down a former BTR officer, William Magazine by name, in connection with a five-year-old infraction. "Riordan" instructed the executive not to bring the information to the police station but to place it in an envelope and leave it to be picked up. He left the precinct phone number, in case there were any difficulties.

You know how this episode turns out: There is no "Peter Riordan" at Precinct 19. The phone number he left doesn't ring on any police department line. Impersonating a police officer is a crime in New

York; at last report, BTR's attorneys were promising someone would be prosecuted.

In Washington, meanwhile, Rep. Joe Early (D-Mass.) and Sen. John Kerry (D-Mass.) shared a brainstorm: Norton does work for the Defense Department; BTR is a foreign corporation; *ergo*, BTR's takeover attempt must be—yes!—*a threat to national security!*

That logic, impeccable in theory, foundered on an awkward fact: BTR, which manufactures parts for the Stealth bomber, has security clearances higher than Norton's.

So Early and Kerry tried again: A foreign takeover of Norton would be a threat to America's *economic* national security. "The definition of national security," said Kerry, who took to walking around in a "No BTR" T-shirt, "is no longer just military might, but economic health."

So all-consuming was Kerry's concern, he said, that he'd written President Bush, pressing him to block a takeover of Norton by foreigners, lest Americans be "stripped of our technical superiority." Norton's chief products are sandpaper and grinding wheels. No wonder Kerry was worried. Just think what could happen if Maggie Thatcher got her hands on American sandpaper.

On April 19, Early held a press conference—his first in 28 years—to announce something he'd figured out. "This ain't just a takeover. This is a hostile takeover." He then introduced Sen. Edward Kennedy, who warned ominously that if the British weren't stopped, Norton would become a "subsidiar[y] of distant conglomerate owners who can only distinguish between a grinding wheel and a tennis racket by looking at a balance sheet."

Then Rep. Silvio Conte (R-Mass.) took his turn. "Today, we are standing up for more than 7,000 American employees whose jobs are in danger" because "BTR will do what is best for BTR." And when a London journalist finally asked just what it *was* that stirred up such anti-British sentiment in the Massachusetts delegation, it was Rep. Barney Frank (D-Mass.) who spoke up.

Speaking rapid-fire, with his customary lisp, in the thick Bayonne, New Jersey, accent that has prevented most New Englanders from making out most of anything he has ever said, Frank answered: "We don't like the way you talk."

The Brit bashing reached heights—or depths—not seen since the War of 1812, when at least there was a good excuse for it. But suddenly, with only 27 hours to go until the fateful stockholders' meeting, Chairman Nelson dropped a bombshell: Norton had agreed to be acquired by Cie. Saint-Gobain, a $14-billion French-based multinational conglomerate, which was willing to pay $90 a share for Norton stock, 20 percent more then BTR's offer.

Suddenly, the voices that had been bleating most earnestly about the evils of foreign raiders were singing hosannas in the street.

"This is great!" (state Sen. Thomas White, Worcester). "Good cause for optimism" (Kerry). "Now we can relax" (John Schaefer, head of the Grassroots Action Committee). "The first good news I've had in two months...almost like a miracle" (Worcester Mayor Levy).

But if they were delirious in Worcester, they were utterly baffled on Wall Street and the Paris Bourse. Ninety dollars a share was preposterously high, far beyond Norton's true worth.

"Saint Gobain's stock dropped 6½ percent after the deal was announced," noted business columnist David Warsh. "Apparently that's what you get when you pay 25 times earnings for a mature and highly-cyclical business, even in France." Standard & Poor's, the bond-rating agency, promptly put the Paris company on its Creditwatch list, with negative implications.

All the same, Nelson and his colleagues were more than pleased. Saint-Gobain's Frenchmen, it turned out, were foreigners the Norton honchos could do business with. Nelson and 12 other top Norton executives were given long-term contracts—Nelson's is for seven years—preserving their jobs, their headquarters offices, their salaries, and their benefits.

Nelson claimed to feel like "a condemned prisoner" who "received an 11th-hour pardon." He was too modest. It was his own brilliant strategy—flag burning, fearmongering, layoff talk, and all—that had protected just the thing he'd set out to save: more than $13,800 a week. *Not* including perks.

In the end, the April 26 shareholders' meeting was an anticlimax. Nelson got a couple of standing ovations and predicted that the acquisition by Saint-Gobain would spell more jobs at Norton.

Or wouldn't.

"Obviously, depending on business and depending on investment and depending on growth, we will add workers or we will"—*let's see, what would the opposite of "add workers" be*?—"fluctuate our work force according to those conditions."

Interestingly, Jean-Louis Beffa, Saint-Gobain's chairman, had voiced precisely the same caveat the day before. Would he guarantee no layoffs? he was asked at a press conference in New York. "What company can promise not to fire anyone?" replied the man who had fired 30 percent of his own work force after taking over Saint-Gobain in 1982. "It depends on the business cycle."

So much for the rank-and-file's job security. And national security? Funny, nobody mentioned it.

Bruised, its name blackened, BTR left Massachusetts the loser in all this. But there was a consolation prize. After Saint-Gobain's offer jacked up the price of Norton stock to an all-time high, BTR sold its 325,000 shares to the market. Profit: $14 million.

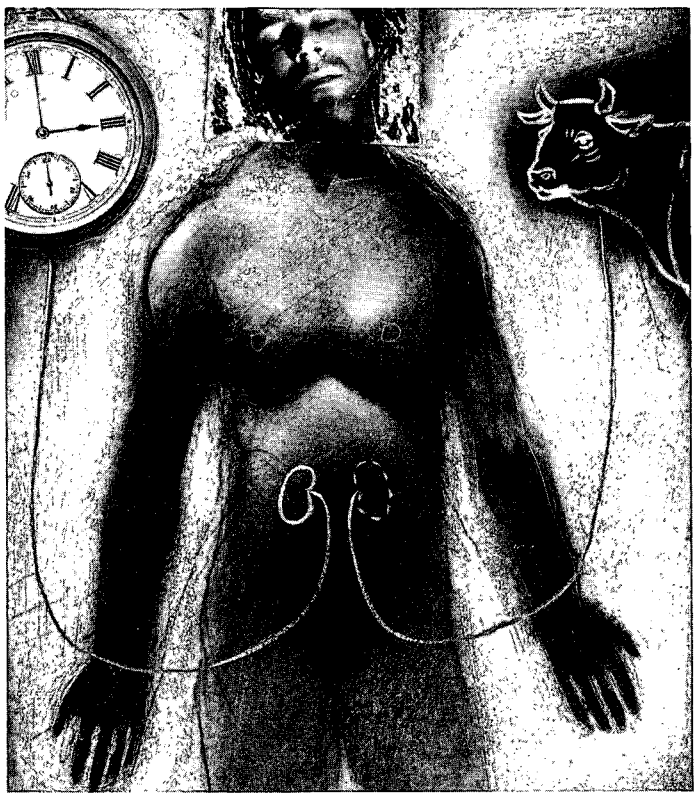
And speaking of profit... A few days after *l'affaire Norton* subsided, it transpired that the bottom had fallen out of Norton's earnings in the first quarter of 1990. Measured against the same period in 1989, profits had plunged more than $9 million, a drop of 34.6 percent. Nelson, having mastered the technique of blaming foreigners for his company's problems, was ready with an interesting explanation.

He said it was the Brazilians' fault.

Jeff Jacoby is the Boston Herald's *chief editorial writer.*

SPARE PARTS

BY RONALD BAILEY



GARY TANHAUSER

A year and a half ago, Velangani Vitalravi sold one of her kidneys to Indian publishing executive A.S. Reddy. Vitalravi used her money to buy land in her native village of Ambattur, where she hopes to build a house for her husband and two children. More recently, her husband sold one of his kidneys to pay off family debts.

The Vitalravis are not that unusual in India, where kidney donation is often a straightforward commercial transaction. When Reddy's kidneys failed in November 1988, he had only to wait three months for a transplant operation. (U.S. patients typically wait more than a year.) His physician, Dr. K.C. Reddy (no relation), simply purchased a kidney from a living donor. Mr. Reddy, father of two girls, explains, "I had no choice but to pay for a kidney." A year and a half later, his new kidney works fine and he feels good.

Among transplantable organs, kidneys are unique. Someone like Velangani Vitalravi can donate a kidney without impairing her health. Donating a kidney is by no means pleasant, but it isn't particularly risky.

Dr. Reddy's transplant team has performed more than 600 kidney transplants—all of which involved kidneys obtained from living donors. More than 450 transplants were done using kidneys purchased from unrelated donors. Originally, Reddy's team let donors and recipients negotiate a price for kidneys between themselves or let middlemen obtain donors. But Reddy became concerned that the donors were exploited by middlemen.

So he designed a system he calls "rewarded gifting." He cheerfully acknowledges that it is really buying and selling organs. His clinic chooses the donors from a pool of volunteers. He cuts out the middlemen who might blackmail or use loan sharking to force a donor to sell a kidney. He counsels each donor to make sure that they all understand what they are doing. Reddy permits no direct negotiation between the recipient and the donor. He offers the donor a flat fee of 27,500 rupees ($1,800), complete medical expenses related to the donation, and a three-year health insurance policy. A third of his donors are relatives of previous donors.

Keep this payment in perspective. The average annual wage in India is 3,600 rupees, so the typical donor receives the equivalent of more than seven years' wages in one lump sum. One of Reddy's donors bought a small farm; one set up a shoemaking shop; and another started a poultry business. Tristam Engelhardt, a physician and bioethicist at Baylor College of Medicine, points out, "In Bangalore, India, if somebody could sell his kidney, that guy would be put into the middle class at once."

Of course, some donors squander their money. "What can I do?" asks Reddy. "It's a free country. A man can do what he wants with his own money."

A complete operation in Reddy's clinic—including hospital costs, testing, donated organ, and costs for obtaining the organ, but excluding the price of the expensive immunosuppressive drug cyclosporine—costs an Indian recipient $5,000; for a foreigner, the cost is $8,000. This compares favorably to the average of $51,000 for such an operation in the United States. Or course, American patients don't have to pay directly for their transplants since they are covered by Medicare.

In the United States, Medicare also pays more than $3 billion a year to provide life-saving dialysis to the 110,000 Americans who suffer from kidney failure. This is not an option in India, where dialysis facilities are few and expensive. Also, there are no intensive-care units which can supply cadaver kidneys. If Indian doctors are to save any of their patients, transplantation using kidneys purchased from live donors is their only option.

Reddy puts it succinctly, "Either I buy or they die." Not only have Indian citizens benefited from this market in kidneys—hundreds of patients from the Middle East and the Far East have received transplants in Bombay and Madras hospitals.

Recently, pressure from a number of international medical societies, such as the prestigious International Transplant Society and the Middle East Transplant Society, has caused some reputable Indian transplant surgeons to stop operating on foreigners. Foreigners in need of new kidneys must now turn to surgeons who operate out of smaller, less modern hospitals.

Reddy resents the Western pressure and strongly defended his transplant program at a conference on "Ethics, Justice, and Commerce in Transplantation" this past November in Ottawa, Canada. Ashok Kirpalani, a nephrologist at Bombay Hospital, fears that pressure from the West may persuade the Indian government to make paid donation illegal.

Says Kirpalani, "If we make it illegal, then only the crooks and the quacks will do transplants. It would be like illegal abortions used to be in your country—thousands died from illegal abortions."

Ironically, even as the United States pressured India to end the sale of organs to foreigners, it pursued policies that may cause more Americans to need those transplants.

In 1984, Congress passed the National Organ Transplant Act, which outlawed the buying and selling of transplantable organs in the United States. As Brooklyn College economist Emanuel Thorne dryly notes: "When something is valuable, you can't just legislate that it is not valuable." Besides outlawing commerce in organs, Congress created a monopoly called the United Network for Organ Sharing to allocate donated organs.

The result of all this government regulation is a rapidly growing shortage of transplantable organs in the United States. Over the past three years, the number of patients waiting for a transplant has increased by more than 60 percent. Cadaver organ donations have not increased for four years. In fact, the number of donors declined from 4,069 in 1988 to 3,993 last year.

In the United States, public policy assumes that an organ should be donated out of altruism, not for commercial concerns. Traditionally, kidney donors have been blood relations of the patient. And yet, even within families, donors do not always give organs out of simple altruism. James Light, a surgeon at the Washington Hospital Center in Washington, D.C., estimates that 15 percent to 20 percent of related donors receive some financial compensation from the patient. Forbidding these commercial transactions only exacerbates organ shortages.

Besides outlawing commerce in organs, Congress created a monopoly called the United Network for Organ Sharing to allocate organs. The result of all this government regulation is a rapidly growing shortage of transplantable organs in the United States. Over the past three years, the number of patients waiting for a transplant has increased by more than 60 percent.

As the U.S. kidney waiting list lengthens and Indian medical standards improve, Americans may begin seeking transplants in India. "I have no doubt that it will occur," says Alan Hull, a nephrologist in Dallas. He continues, "As the waiting list grows, I have to say to patients, 'Look, you have a rare blood type and you're a high reactor. The waiting time for you will be 5 to 10 years, which is longer than your life expectancy; so while I'd love to give you a transplant, I don't think I can offer it to you.' That person has money, and there's a kidney in Bombay, their chances are 50/50, let's say, you know what will happen—they're going to buy one. When you bring that scenario up at medical society meetings, no one wants to talk about it."

Reddy is reluctant to take American patients, since they can obtain dialysis for free at home. If, however, a patient's physician referred him to Reddy's clinic, explaining that the patient was not doing well on dialysis and was in urgent need, then Reddy says that he would feel a humanitarian obligation to take him on as a patient.

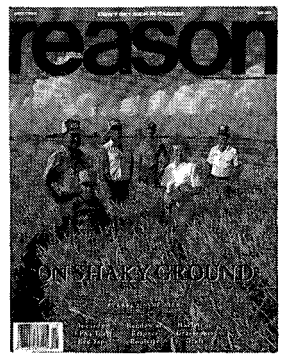
Reddy would also consider participating in a well-regulated international program in which he would buy kidneys from donors in India and ship them for transplantation to centers in the United States. He would engage in such a program only if the donors received most of the money paid for the kidneys. Technologically, this type of international trade in organs is now possible thanks to the preservation fluid Viaspan.

Some Western bioethicists argue that buying and selling kidneys in the Third World is a horrible example of the rich exploiting the poor. Baylor's Engelhardt responds, "If rich first-worlders can buy organs from the poor third-worlders, the poor third-worlders will all of a sudden have a great deal of capital at the cost of very little risk. If one forbids third-worlders from selling their organs, one condemns them to remaining poor and to working at much higher-risk endeavors in order to earn a living. We're exploiting them in order to feel good about a set of moral concerns that we can't articulate in general secular terms."

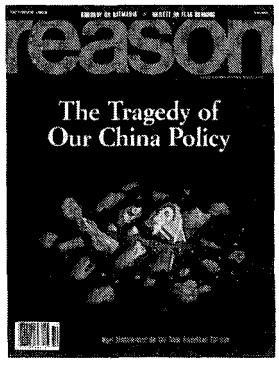
The Indian market in kidneys works. The U.S. government-mandated organ allocation scheme, which relies solely on altruism, is unable to end the organ shortage. It is high time for the transplantation community, policymakers, and the public at large to consider seriously proposals that will offer compensation to cadaver donors' families and, in the case of kidneys, to living donors themselves. Every day we wait, more people needlessly die.

Ronald Bailey is a staff writer at Forbes.

"Government agents befriended traders, visited their homes, and shared their meals. They attended their parties, played with their children, and won their trust. They deluded the defendants and then ensnared them in order to prosecute them for the moral equivalent of jaywalking."
—TRADER X, "SNARING THE CHICAGO 46"



"Every five years in Peru we have elections. We elect a dictator every five years. You've confused it with democracy, and so have we."
—HERNANDO DE SOTO, "WHAT'S WRONG WITH LATIN AMERICAN ECONOMIES"



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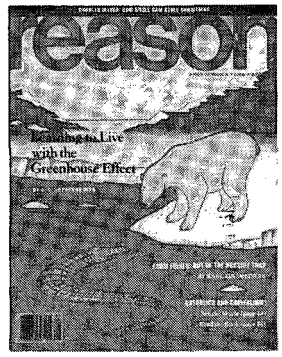
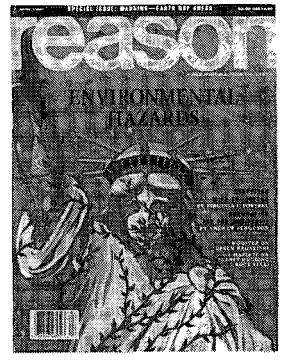


"For all the right-wing grousing about Washington and the majesty of the government 'closest to the people' (yeah, like right inside their wallets), state and local governments in America are notoriously shady enterprises, demonstrating the twin evils of local monopoly and a cozy-with-the-powers press."
—THOMAS W. HAZLETT, "LOCAL HEROES"

"When the law determines vice and virtue, everyone competes to determine the law. We end up with a struggle between those who can't tolerate the idea that anyone anywhere is having fun and those who can't tolerate the idea that anyone anywhere disapproves of their fun."
—VIRGINIA I. POSTREL, "SIN AND DECADENCE"

"Dr. Ehrlich was an entomologist by training, and some immediately recognized that after many years of rigorous study, he had lost the capacity to distinguish between an army of hideous little arthropods swarming over his desk in a Stanford laboratory and an upwardly mobile population of Homo sapiens building tract houses in Palo Alto."
—ANDREW FERGUSON, "APOCALYPSE WHENEVER"



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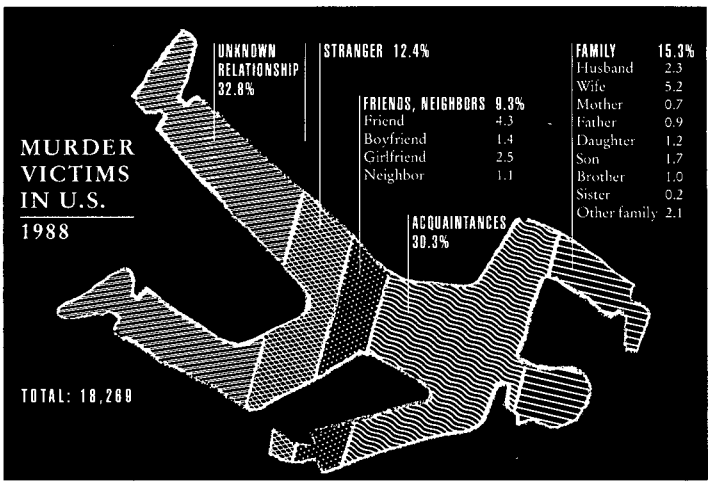
IN THE HEAT OF THE MOMENT

BY JAMES D. WRIGHT

Bob and Jim are good drinking buddies. After a night at their favorite bar, they head back to Jim's trailer for some whiskey. Jim begins praising his new girlfriend. Bob questions her fidelity and claims that he has slept with her. Seized by uncontrollable rage, Jim grabs a loaded .44 from the kitchen drawer and ends the conversation with a bang.



This is the sort of scenario that most people probably imagine when they hear that the majority of murders involve individuals who knew each other before the crime. Based on this impression, gun-control advocates argue that most homicides do not involve murderous intent. Rather, they are committed in the heat of the moment, in disputes or altercations among loved ones or close associates that escalate into rage—disputes that turn fatal not so much because anyone intended to kill but because, in that lamentable fit of anger, a gun was at hand. And if that is really how most murders happen, it follows that if fewer guns were "at hand," fewer murders would be committed.

But the data on relationships between homicide victims and their killers tell a different story. The conclusion in favor of gun control simply does not follow from the evidence.

FBI figures for 1987 and 1988 reveal that murders by strangers—for example, in the course of a robbery—are rare. They account for only about one in eight homicides (12.6 percent). But this does not imply that the remaining seven in every eight homicides involve loved ones slaying one another. After all, very few people love everyone they meet. Just how close is the relationship between victim and killer in the typical murder?

In many cases—nearly a third of the total—the authorities simply cannot determine the relationship. Next to "unknown," the largest relationship category is "acquaintance," accounting for approximately one additional third of the murders. You might think that "acquaintance" refers to fairly close associates, but the FBI tallies neighbors, friends, boyfriends, girlfriends, and all types of relatives in their own separate categories. If there were any degree of intimacy or closeness between acquaintances, the FBI would almost certainly classify the homicide under another heading. In this context, "acquaintance" means only that the victim and killer had some idea of each other's identities before the murder.

All categories of relatives combined account for about one in six murders (15.9 percent on average). About half of these are slayings of spouses by spouses. Friends and neighbors add an average of 9.8 percent to the annual homicide total. Altogether, then, relatives, friends, and neighbors commit only about a quarter (25.7 percent) of murders. So it's not true that "most" murders involve persons who share some degree of intimacy or closeness. Most murders—some three-quarters of them—are committed by casual acquaintances (30.2 percent), perfect strangers (12.8 percent), or persons unknown (31.2 percent).

Gun-control advocates, however, can easily convey the opposite impression of these data. By simply omitting the unknown relationships from the calculation and including casual acquaintances within the category of intimates, they can make it seem as if every murder other than those committed by perfect strangers involves intimates. But given what the category of acquaintance specifically omits, this would be an irresponsible misrepresentation.

That most murder victims know their killers prior to the crime is scarcely a surprise. That people know one another is not in itself evidence that they like one another. Ordinarily, the only people a murderer would have good reasons to kill would be people he or she knows. Indeed, slayings in the course of some other felony are the only obvious exception; random killings are understandably quite rare. So contrary to the common assumption, some degree of prior acquaintance between victim and offender definitely does not rule out murderous intent.

Cases of family members slaying one another figure prominently in the gun-control debate but represent fewer than one-sixth of all murders. Studies of family homicide have shown that most of these families (about 85 percent of them) have had previous domestic quarrels serious enough to bring police to the residence; in nearly half the cases, the police had been called to the residence five or more times before the killing occurred. Indeed, most of the families in which such homicides occur have histories of abuse and violence going back years or even decades. These slayings are generally not isolated outbursts of rage between normally placid and loving

CHART STATISTICS FROM FBI UNIFORM CRIME REPORT

couples. They are, instead, the culminating episodes in long, violent, abusive family relations.

At least some family homicides probably do result from the stereotypical "moment of rage." Others result from a thoroughly willful intention to kill. Knowing only that victim and killer are related by blood or marriage does not in itself tell us which explanation is correct for a given homicide.

Consider the bizarre case of Theron and Leila Morris, a Florida couple recently accused of killing their son, Christopher. Police say the Morrises were plotting with their son to murder his ex-wife for her insurance money. Then the conspirators learned that the ex-wife's insurance policy had lapsed, so there was nothing to be gained in killing her. Evidently annoyed by this turn of events, the Morrises then allegedly plotted between themselves to kill Christopher, in order to collect on *his* insurance policy, which was still in force and worth twice what his ex-wife's policy was worth. The Associated Press reported that the parents

The parents were reportedly also angry with their son because he had "sold them bogus cocaine."

were also angry with Morris because he had "sold them bogus cocaine for $1,000 that they had intended to resell."

Morris's killing will appear in the FBI's 1990 Uniform Crime Report tabulation as a family homicide; having been slain by his own parents, he will be included in the category "son." What, then, will we know about the circumstances of his death, given that he was the child of his killers? Nothing at all.

How many murders are committed in a moment of rage, brought to fruition largely because a gun was available, and how many result from an unambiguous intention to kill? The fact is, nobody knows the answer to this question. An adequate answer would require getting inside the heads of murderers as they contemplate and commit their crimes.

Clearly, though, the assumption that heat-of-the-moment murders far outnumber willful murders cannot be justified by evidence on prior victim-offender relationships. Such information does not support conclusions about homicidal motives or about the number of slayings that might be prevented if fewer guns were available.

James D. Wright is Favrot Professor of Human Relations at Tulane University. He is the author of Under the Gun: Weapons, Crime, and Violence in America *and* Armed and Considered Dangerous: Felons and Their Firearms.

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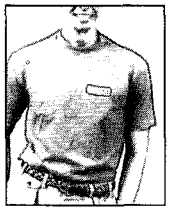

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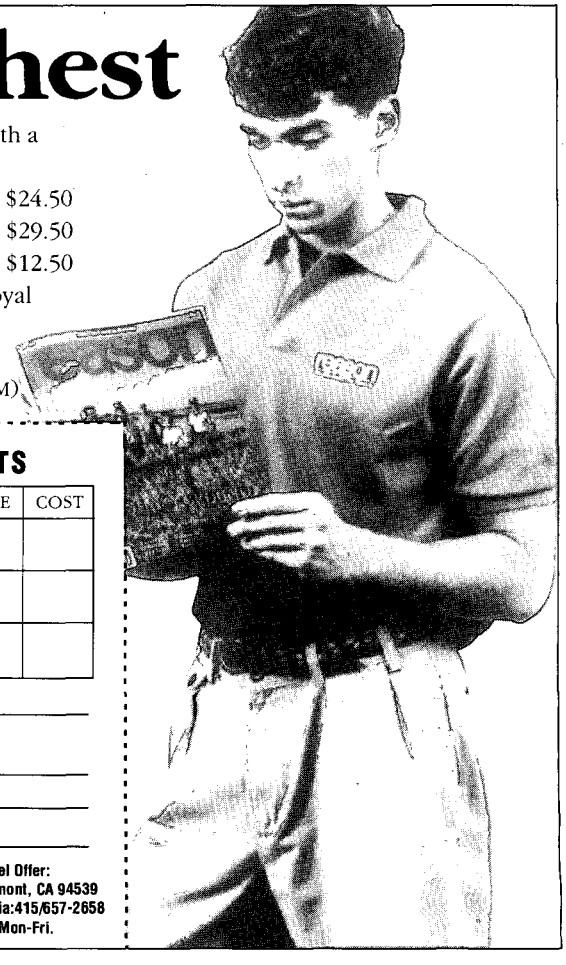

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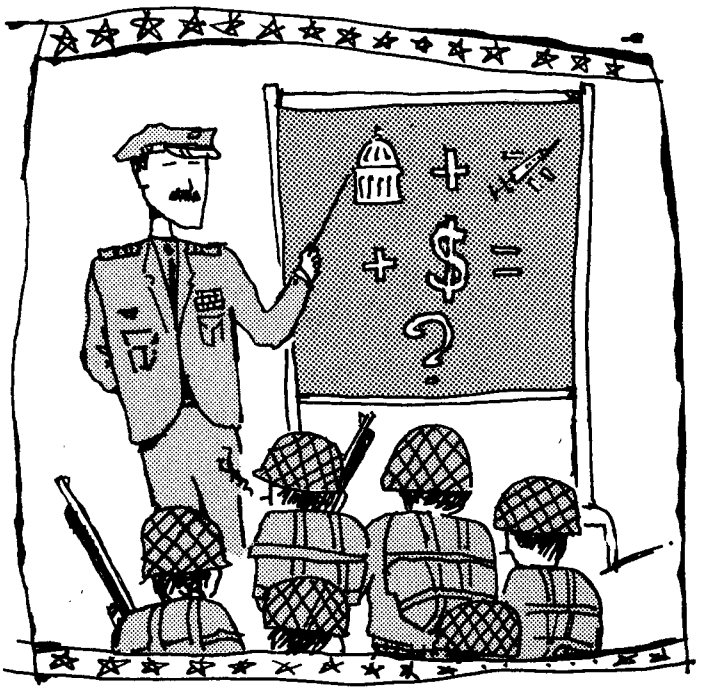
THE WAR OVER THE WAR

BY MARTIN MORSE WOOSTER



The debate about the war on drugs has focused on the wrong questions. The arguments center on which drugs should be legalized or decriminalized, and what these reforms would mean. On the side of legalization is a small band of judges, sociologists, journalists, and lobbyists; on the other side is drug czar William Bennett, the Conan the Barbarian of politics, flailing his mighty broadsword against a massive army of liberals, wimps, and traitors.

But because the debate over drugs tends to focus on legalization rather than federal antidrug policies, the discussion is largely about what hasn't happened rather than what has. While I'm in favor of as much legalization as possible, I would prefer that advocates of drug reform aim their words at Bennett, not at each other or at the blue and empty sky.

Bennett and his policies should be at the center of the drug-policy debate for two reasons. First, as the neoconservative sociologists have taught us, social science can determine whether existing policies have worked, but it says very little about whether new policies will be effective. Every discussion about drug legalization not derived from history or the experience of other countries is speculation. Every program William Bennett institutes is fact.

Second, the burden of proof should always be on the people who advocate a particular government program. The Pentagon, for example, has to show that the United States still has enough enemies to justify a $300-billion budget. William Bennett should be required to tell us why Congress should give him the $10 billion he wants to battle drug dealers.

Why haven't Bennett's policies been thoroughly analyzed? One reason is the dearth of hard information on drug use in the United States. Most drug surveys rely on self-reporting, and few people will accurately tell an employee of the federal government how many drugs they consume. (Data for teenagers are even more questionable, since many of these surveys ask about illicit drug use in the presence of the respondent's parents.) Data about how much illegal drugs cost are still less reliable.

Even the addictive power of controlled substances is open to debate. As Dartmouth Medical School neuroscientist Michael Gazzaniga notes in an interview in the February 5 *National Review*, if one accepts National Institute on Drug Abuse estimates as accurate, all cocaine users currently constitute 2 percent of U.S. adults, whereas cocaine addicts constitute 0.25 percent of the population. Gazzaniga estimates that only 10 percent of people who try an illicit drug become addicted to it.

For the past six months, I have been searching for someone not receiving government cash who would argue in a magazine article that Bennett's policies have been effective in reducing drug use. The nearest I've come is James Q. Wilson's "Against the Legalization of Drugs" in the February *Commentary*. Drug warriors loved the piece; George Will devoted a column to it two months in advance of publication, unprecedented in the magazine world.

What is interesting about Wilson's article is what is left out. Wilson does not mention William Bennett at all; the only analysis of federal drug policy is from the 1970s. Wilson also avoids the marijuana question entirely, referring his readers to Harvard scholar Mark Kleiman's book on the subject, without mentioning that Kleiman favors decriminalizing marijuana.

Wilson argues that heroin, cocaine, and PCP should remain banned because legalization would mean millions of addicts who would goof off at work, beat their children, and commit crimes. Furthermore, in Wilson's eyes, drug use is not a "victimless crime" because "society is not and could never be a collection of autonomous individuals. We all have a stake in ensuring that each of us displays a minimal level of dignity, responsibility, and empathy."

Thus Wilson's objections are based on science and philosophy. Implicit in Wilson's argument is the notion that illegal drugs are somehow instantly and permanently addictive. Here is his comparison of crack and heroin:

"Crack is worse than heroin by almost any measure....Regular heroin use incapacitates many users, especially poor ones, for any productive work or social responsibility....By contrast, regular

BOB ECKSTEIN

cocaine use leaves the user neither helpless nor harmless. [Using cocaine once] generates a powerful desire to repeat [the experience]. If the drug is readily available, repeat use will occur. Those people who progress to 'bingeing' on cocaine become devoted to the drug and its effects to the exclusion of almost all other considerations—job, family, children, sleep, food, even sex."

This is sloppy analysis. One wades through Wilson's prose, hoping for some number, some fact, to save the reader from drowning in rhetoric. What does Wilson mean by "regular use" of cocaine? How many people "progress" to cocaine addiction? How large were the experiments Wilson cites? Are any of the studies he quotes from the 1980s? We do not know, and given the haziness of his evidence, Wilson is unpersuasive.

As for Wilson's philosophical doubts about legalization, someone should report him to Allan Bloom, for all Wilson does is revive the hoary Rousseauian notion of the "general will." How, precisely, does Wilson propose that I simultaneously aid thousands of addicts across the country? Taxes? Government regulations I played no part in writing or enforcing? Does Wilson believe that bureaucrats always represent the will of the people?

Wilson is a serious man, and his arguments deserve extensive analysis. Most foes of legalization, however, are as credible as Ernest "Hang 'em High" van den Haag, who in the April 1 *National Review* argues that we should send all illegal drug users to "prisoner-of-war camps," where they would spend a year repairing America's roads and bridges. Van den Haag doesn't explain how much this would cost, but if he wants to reduce expenses, there are plenty of recently unemployed police in Eastern Europe with decades of experience in handling political prisoners.

So much for the defenders of the drug war. The best articles about drug use have been critiques of current policies. I recommend the Gazzaniga interview in *National Review* for a good summary of what scientists currently know (and don't know) about drug use. Gazzaniga is particularly useful in explaining to the nonscientist what *addiction* means and how the term can be easily misconstrued.

Two extensive profiles of William Bennett appeared at the same time. You've read Jacob Sullum's cover story in the March issue of REASON, but if you want to read more about Bennett, I suggest "The Two William Bennetts," by Michael Massing, in the March 1 *New York Review of Books*. Sullum's and Massing's pieces complement each other; Sullum is better on Bennett's intellectual roots, while Massing prefers to show the drug czar in action. Massing's most telling insight into the corporate culture of the Office of National Drug Control Policy is that reporters are routinely requested not to mention the agency's office address for national security reasons!

Gerry Fitzgerald, in the January/February *Common Cause*, does a good job of showing how drug laws affect the nation's criminal justice system. Fitzgerald is best at describing how mandatory sentences clog the courts. In New York state, for example, Nelson Rockefeller successfully lobbied for a law imposing harsh mandatory sentences for drug use, including a life sentence for possessing a pound of heroin and a minimum of 15 years for possessing an ounce of marijuana. The result: Without plea-bargaining, cases took 10 to 15 times as long to complete. The lengthy delays cut in half the conviction rate for drug possession or dealing. Moreover, the people who were convicted tended to be minor dealers or users; major traffickers frequently received lifetime probation sentences in exchange for turning state's evidence.

In the May 21 *New Republic*, Charles Murray argues that legalization of drugs is not the main issue. What matters more, he feels, is that schools, neighborhoods, and offices should have the power to be as drug-free as they wish to be. Murray argues that deregulation and choice are the keys to accomplishing this. For example, he advocates tuition vouchers to enable parents to pick schools with the right disciplinary approach to drugs; allowing landlords to screen and expel tenants without government interference; and permitting employers to fire chronic drug users readily.

Murray's best arguments are against those who would deter drug use through stricter law enforcement. He argues that such deterrence is possible in theory, but its costs are prohibitive. To punish even 20 percent of drug users, he says, would mean arresting twice as many people as were arrested for *all* violent crimes, burglaries, and car thefts in 1988.

The two major anti-drug-war organizations would not forgive me if I didn't review their publications. The Drug Policy Foundation, founded by American University criminologist Arnold Trebach, publishes a bimonthly *Drug Policy Letter*. At times the newsletter is interesting; a recent issue, for example, was devoted to an extensive review of every government report that has recommended decriminalizing or legalizing drugs. But too often the publication is full of self-congratulation; in one issue, all the judges and elected officials who have joined the legalizers praised each other for being politically correct. (The foundation's address is 4901 Massachusetts Avenue, NW, #400, Washington, DC 20016; the newsletter is $50 a year.)

The National Drug Policy Network is an organization devoted to circulating as much information as possible about the debate over illicit drugs. It publishes *Newsbriefs*, a biweekly clipping service. The May 1 number, for example, reprints two McNeil-Lehrer transcripts, a confusing speech by the mayor of Bogota, an article from *U.S. Catholic* favoring legalization, and 20 op-ed pieces from a recent *Los Angeles Times* series on drug reform. If you need to read every article on the drug debate, *Newsbriefs* will amply satisfy your craving ($50 a year from the National Drug Policy Network, 2000 L Street, NW, #702, Washington, DC 20036).

Martin Morse Wooster is the Washington editor of REASON.

Plan of La Mancha

BY WILLIAM TUCKER

Cities of Tomorrow: An Intellectual History of Urban Planning and Design in the Twentieth Century, by Peter Hall, Boston: Basil Blackwell, 480 pages, $37.95

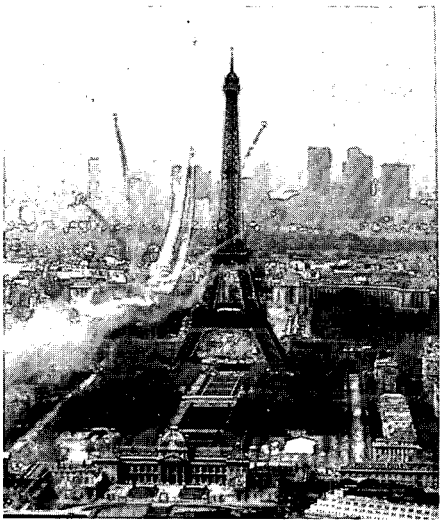
What is it about "planning" that brings out the worst instincts in some of the best minds?

As Peter Hall notes in *Cities of Tomorrow*, the concept of "land-use planning" has been around a long time. The pharaohs were planners when they built the pyramids. Louis XIV was constructing a "new town" when he broke ground at Versailles. In fact, planning seems to work best with highly centralized, authoritarian regimes. The Nazis were great planners. Hitler was still reviewing Albert Speer's models for the new Berlin as he headed for the bunker.

Once in a great while, a visionary mind looks at a swamp or tenement district and conceives a grand design that changes the way people think and live. Chicago architect Daniel Burnham's revival of Pierre L'Enfant's original Washington, Baron Haussman's broad-avenued Paris, Frederick Lewis Olmstead's Central Park, Burnham's own design of Chicago's Grant Park—all are landscapes and cityscapes that are imprinted in our hearts.

Yet municipal planning, as it is practiced today, is an exercise in redundancy. As Hall puts it: "Somehow, everything must be watched; nothing must be allowed simply to 'happen.' No house can be allowed to be commonplace in the way that things just *are* commonplace; each project must be weighed and planned, and approved, and only then built, and only after that discovered to be commonplace at all."

Modern planning arose out of the conviction that the private market could not provide decent housing. Nineteenth-century reformers, appalled by slums, drew up plans for "garden cities" in which the poor would live in comfortable, self-sustaining communities ringing the cities. Ebenezer Howard, the English visionary who started the idea, actually managed to get a few garden cities built in his lifetime. They never became self-sustaining, however, and were quickly absorbed by the suburbs.



Paris is one of the few places where municipal planning worked.

Patrick Geddes, another eccentric Englishman, is the "father of modern planning" and source of the notion that all urban development should be directed by generalists schooled in the arts. "Survey before plan" was Geddes's dictum, and he spent hours pacing the rooftops of Edinburgh, trying to figure out which way the city should grow next.

When brought back to earth, however, Geddes's observations often proved a bit more commonplace. After taking a flat in Edinburgh, he enthused how he and his wife had discovered "flower-boxes for dull windows and color-washing for even duller walls (than which there is no better, no simpler, and no brighter beginnings for city improvements)."

At its worst, planning imposes the visions of the politically powerful on an unwilling public. At its best, it pushes the market where it is already going anyway. All of the numerous planned communities—Radburn, New Jersey; Forest Hill Garden in Queens; Garden City, Long Island—began as social experiments where rich and poor would live in foreordained harmony. All attracted only the affluent and eccentric and ended up as pricey suburbs.

Without popular or financial support, planners usually move from one administrative level to another, hoping to find some unmanned vantage point from which they can dictate policy. Lewis Mumford helped found the New York Regional Planning Association in the hope of drawing a line around New York's outward growth. Mostly he produced unread volumes of unheeded recommendations. Yet Robert Moses—to whom Mumford was spiritual kin—used the same regional vantage point to redesign New York City's landscape.

It's rarely a matter of architecture, only of ego. Le Corbusier (his real name was Charles-Edouard Jeanneret) couldn't just design buildings. He had to imagine a whole new industrial society in which houses were "machines that people live in." When his dreams were finally realized in high-rise public housing, it proved to be a disaster. (The problem was that the poor, with many children and few recreational outlets, cannot be piled in large buildings as painlessly as can the rich, who have cars and summer homes with which to escape.)

PHOTO COURTESY OF THE FRENCH CONSULATE IN LOS ANGELES

"The greatest architects have all been failures," Hall quotes one astute critic. Only Frank Lloyd Wright's "Broadacre City," proposed in the 1920s, showed any tolerance for the landscape people seem to prefer—"suburban sprawl."

Even then, it was Wright's own social maunderings that predominated. As critic Herbert Muschamp wrote: "[W]hen all the Whitmanesque windbag rhetoric extolling the pioneer spirit is swept away, what remains is a society constructed upon the strict hierarchical principle...: a government of architecture, a society in which the architect is granted ultimate executive power....It is easy to view Broadacre as proof that within every self-styled individualist is a dictator longing to break free."

The question at the heart of planning, then, is why do we have planners at all? The very concept implies that people who build parks or carve out suburban subdivisions aren't planning themselves. They are—and when they do, their microdecisions usually combine into a mosaic that is far more vital, imaginative, and interesting than the phantasmagorias of the master builders. The world's best monument to urban planning may be the broad boulevards of North Korea, magnificent to behold but completely devoid of people or cars.

Hall—who claims credit for the idea of enterprise zones—is a planner with a healthy sense of skepticism. While sharing some of the enthusiasms, he also understands the limitations. For every Grant Park or Capitol Mall, there are 100 sterile urban renewal zones. For every Champs Elysées, there are a dozen British or Swedish "new towns" in which "national planning" has deprived millions of what they want most—a small, detached, suburban home.

Planning? Zoning? Couldn't we just limit it to "Parks and Recreation"?

Contributing Editor William Tucker is the author of The Excluded Americans, Progress and Privilege *and* Vigilante.

Beware the Cure

BY BRUCE ALEXANDER

Diseasing of America: Addiction Treatment out of Control, by Stanton Peele Lexington, Mass.: Lexington Books, 321 pages, $19.95

In *Diseasing of America*, Stanton Peele describes an America in which reason, self-reliance, and community are being swept away by a bizarre ideology that defines human problems and excesses as addictive diseases. He suggests that this ideology and the accompanying treatment industry could lead to a medical-religious totalitarianism.

Peele's vision is a social-science counterpart to Margaret Atwood's brilliant novel *The Handmaid's Tale*. Both Peele and Atwood perceive a real threat in those who seek to heal and purify the American public; both show how the healers mix medical, religious, and psychological ideas into coercive treatment rituals; and both identify a poisonous fear that makes Americans vulnerable to the healers' dogma.

Peele's style is unusual. He draws heavily from the scholarly literature but also from popular television shows and the *New York Times*. He writes in a casual manner that invites readers to forget that he is a professional scholar. It must be said that he sometimes sacrifices precision for informality, although the underlying analysis is rigorous and compelling. Peele used this casual style in his *Love and Addiction* to introduce ideas that have enriched the thinking of less adventurous scholars, and I believe he may make as great a contribution with this new book.

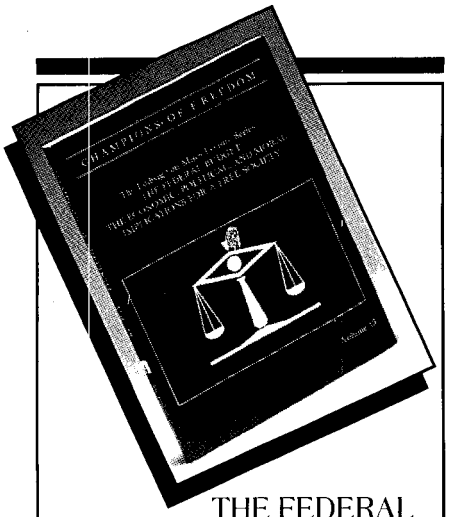
As a Canadian, however, I'm not sure whether the situation in the United States is quite as bad as Peele paints it. He leaves the impression that large numbers of Americans who use drugs moderately are being forced into treatment for addiction through urine-testing programs at work and school; that most treatment for addiction in the United States is now involuntary; that such treatment usually forces patients to redefine themselves as having lost control and preaches that they must forever after abstain from all drugs; that

The idea that people who misbehave are simply not trying hard enough seems just as dangerous as the idea that they have a disease.

a significant number of Americans have been acquitted of crimes as serious as infanticide and spouse murder on the grounds of dubious "diseases" such as postpartum depression, alcoholism, and drug addiction.

Peele also leaves me with the impression that Americans are astonishingly gullible. But do many otherwise sensible Americans really believe that the basic problems of underclass ghettos are *caused* by crack or other drugs, or, as self-serving experts suggest, that 80 million people (three times the population of Canada) require treatment for either alcoholism, alcoholic codependency, or the effects of being raised in an alcoholic family? Do Peele's horror stories truly reflect an enduring mentality in the United States? Or could these phenomena be just the aberrations of a dark period, a brief nightmare in the long life of a great and intelligent country?

If they are nightmares, then *Diseasing of America* is a timely wake-up call. But Peele (and Atwood) could be more right than that. What if the United States really is dominated by moral zealots spouting medical-religious-psychological doublethink? In that case, Peele's analysis would be critically important, although it would leave some vital



THE FEDERAL BUDGET:
The Economic, Political, and Moral Implications for a Free Society

Volume 13 in the *Champions of Freedom* series on free market economics includes essays by Paul W. McCracken, Thomas J. DiLorenzo, Martha R. Seger, Melvyn Krauss, Catherine England, James M. Buchanan and Richard E. Wagner.

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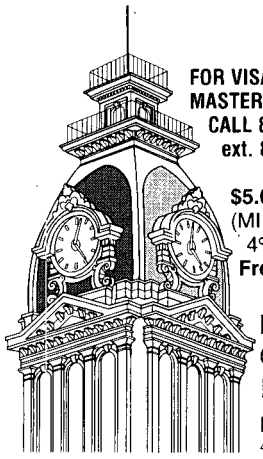

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questions unanswered.

The most important unanswered questions concern cause. Why are Americans so receptive to disease theories of just about everything? If the immediate cause is fear, as Peele implies, what causes the fear? What is the root cause of ghetto violence? Surely poverty alone is not a complete explanation. What underlies the widespread incidence of excessive or addictive behavior? The last question could be the most important of all. The ubiquity of personal excess provides an ideal opportunity for the zealots who proclaim the taxonomy of imaginary diseases and peddle their coercive treatments. Peele shows that the tendency to excess is not disease; but what is it?

Here, as I see it, he becomes too informal. He mixes two major ideas together and tosses a few minor ones about as well. One major idea is that excessive people are coping as well as they can with impossibly difficult circumstances, given the limitations of their personalities and abilities. The other is that excessive people are just not trying hard enough, that their problems are a failure of will.

The first of these ideas leads to the humane implications that shattered communities must be restored to normal levels of intimacy and support and that poverty and joblessness must be reduced among the underclasses to provide opportunities for reasonable satisfaction without addictive excess. However, these remedies may be out of reach without some further analysis of the forces that made American society so harsh in the first place.

The second idea, that people who misbehave are simply not trying hard enough to control themselves, seems to me just as dangerous as the idea that they have a disease. Both ways of understanding people—as having chronically weak willpower and as having addictive diseases—imply the need for a technology of control. In one case, the control technology would bolster willpower, and in the other case, it would cure the disease and restore self-control. Peele makes it clear that he sees these two kinds of intervention as fundamentally different, but to me they sound distressingly similar. I will be happy if Peele shows that I am wrong in this fear, but he does not accomplish this task in *Diseasing of America.*

Leaving aside the still-unanswered questions, I believe that *Diseasing of America* is important. Stanton Peele has vividly portrayed the anatomy of public folly. His vision is startlingly acute, and his sensitivity to the human condition runs deep.

Bruce Alexander is a professor of psychology at Simon Fraser University in Burnaby, British Columbia, and author of Peaceful Measures: Canada's Alternatives to the War on Drugs *(University of Toronto Press).*

Grab a Whip and a Chair

BY STEVEN HAYWARD

Taming the Prince: The Ambivalence of Modern Executive Power
By Harvey C. Mansfield, Jr., New York: The Free Press, 358 pages, $24.95

Harvey Mansfield's inquiry into the nature of executive power poses a disturbing challenge for political theory. If Mansfield is right, classical liberals (along with many others) have some tough thinking to do about the sufficiency of the rule of law.

Taming the Prince explores the largely ignored territory of the ambivalence or ambiguity of modern executive power. The executive—especially the American president—is both subordinate to and independent of the legislature. Consider the ordinary sense of the term *executive* as the office that "executes" the laws made by others. On the surface the executive is said to follow the "will of the people," strictly as an agent. But the executive is also an independent political power in his own right, in ways that go beyond the

enumerated powers to veto, command the military, and so forth. Remember, in the presidential oath the executive promises to execute the *office* of president, not merely the laws.

Beyond the consideration of the formal and informal aspects of political executives, Mansfield makes a serious philosophical argument about executive power: Strong executive power is necessary because the rule of the law is incomplete or insufficient without it. The implication is that nonarbitrary politics is inherently impossible. Executive power, says Mansfield, is "intended to secure the difference between free government and tyranny by giving the former some of the power and techniques of the latter." Moreover, this necessity—and the true nature of executive power—must be concealed. Another way of thinking about this would be to say that the executive is the point of tension between the theory and practice of politics.

Executive power, says Mansfield, secures free government by adopting some characteristics of tyranny.

We should derive little comfort from the fact that the modern executive has been republicanized and constitutionalized. The American president "claims the silences of the Constitution" (Richard Pious's phrase in *The American President*) and so is "above the law," not in the sense of being exempt from it, but in the sense of transcending it. Although libertarian theorists such as F.A. Hayek identify executive administration as the "gap" through which a people's liberty may be driven out, Hayek and others view executive power in the same way as judicial power—as being merely instrumental to the rule of law.

For theorists such as Hayek, legislative power is the keystone to the rule of law and successful politics. For Mansfield, executive power is the keystone to the rule of law and successful politics. In light of Mansfield's powerful argument, libertarians need to confront and "tame" executive power for themselves.

The greater part of *Taming the Prince* is a sweeping survey of the evolution of the idea of executive power, beginning with Aristotle, who had no explicit theory of executive power. Aristotle's political science aims to discover the one "best regime" according to nature, which would promulgate the attainment of human excellence—human excellence being understood as the perfection of the virtues outlined in the *Nicomachean Ethics*. Such a regime might be founded and governed through the "kingship over all" by the man or men of superior excellence and virtue. But Aristotle, unlike Plato in the *Republic*, knows that such a ruler is unlikely ever to be found. Thus, Aristotle concentrates on improving actual regimes, which is to be done through the rule of law and the pursuit of justice.

Mansfield's account perks up when he arrives at Machiavelli. Mansfield is among those political theorists who see Machiavelli as the decisive break in Western political thought. Machiavelli rejects the Aristotelian notion that there can be a best regime according to nature. For Machiavelli, the flaw of classical political science is that it sets its aims too high by seeking to achieve justice and human excellence. Better, Machiavelli teaches, to lower the sights of the regime and abandon the pretense of justice. If there is no best regime according to nature, no objective claim to justice, then politics will always be an imposition and a fraud, and all rule will be tyrannical to a greater or lesser degree.

For Machiavelli, the rule of law cannot attain what it attempts; for a regime to succeed—and Machiavelli wants a regime to succeed grandly—outside assistance is needed, in the form of a strong-willed, unscrupulous prince. The purpose of Machiavelli's executive, says Mansfield, is to remind men of their fear. Machiavelli thought the strong, amoral

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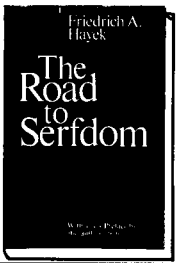

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prince could conquer chance or fortune, which, for Aristotle, was the factor that made the one best regime unlikely to be founded or preserved. Paradoxically, Machiavelli's regime of the strong prince would be much more likely to promote both human excellence and justice, albeit a more modest form of excellence and justice.

The remaining history of the doctrine of executive power consists in "taming" or "domesticating" this ruthless prince so as to make the executive palatable within liberal constitutional regimes, which aim at preserving and enhancing individual liberty. Mansfield traces this taming process at length through Hobbes, Locke, Montesquieu, and *The Federalist*. For Hobbes, Locke, and the social-contract school, individuals are free and equal in the state of nature, but their self-preservation requires government. Recall Hobbes's memorable line that life in the state of nature without government would be "solitary, poor, nasty, brutish, and short."

Locke brings us what might be called the sanitized version of Machiavelli's strong prince in the form of "executive prerogative," which Locke understands as the power to do public good without a rule—a power Locke admits to be arbitrary. Together with Montesquieu and the American Founders, Locke developed the doctrine of the separation of powers, which further "republicanizes" executive power.

Mansfield is an open admirer of strong executives, and he believes only strong executives can direct a nation toward its chosen ends. His models are Roosevelt and Reagan, and although he says an executive must be principled to succeed, Mansfield as a political scientist is neutral as to what those principles should be. In fact, he makes it clear in his conclusion that he views principles as merely instrumental to political success.

Executive power has always been a troubling feature of politics, not just for ordinary liberals such as Arthur Schlesinger, Jr. (*The Imperial Presidency*), but also for true partisans of liberty such as Robert Higgs, whose *Crisis and Leviathan* traces the way activist executives have used periods of crisis both to expand permanently the power of the state and to curtail individual liberty. Machiavelli might well have approved of these aggrandizements of the American state. But if Mansfield is right that executive power is the keystone to politics, then libertarians need to think hard about how to square a regime of individual liberty based on the rule of law with the executive power "to do public good without a rule."

The answer to this may seem disconcerting. Libertarian political theory, especially that of Hayek and Nozick, would appear to be designed within the lowered horizon of post-Machiavellian political philosophy as adapted by Hobbes and Locke, which stresses the protection of individual rights through limited government. But by combining the liberal understanding of limited government with the recent insights into the nature of free markets, libertarian political theory is rather more Aristotelian than anyone has explicitly noticed. It aims for a substantive, nonarbitrary outcome—in a word, justice. Libertarians believe they have the design for the best regime according to nature.

The pure libertarian theory of the self-regulating spontaneous order of free individuals bounded only by a body of law based on natural right and free exchange is, however, inadequate without executive power. So we must tame executive power for libertarian purposes, as Machiavelli would put it. Alas, this probably cannot be done through constitutional means or in theory, but instead requires politics. In other words, only executives who understand the importance of the minimalist state will do. If this seems daunting, remember that Machiavelli would probably say that libertarian political science, like Aristotelian political science, sets its aims too high. To this charge we should cheerfully plead guilty, even as we go about the difficult task of taming our princes with the doctrines of liberty.

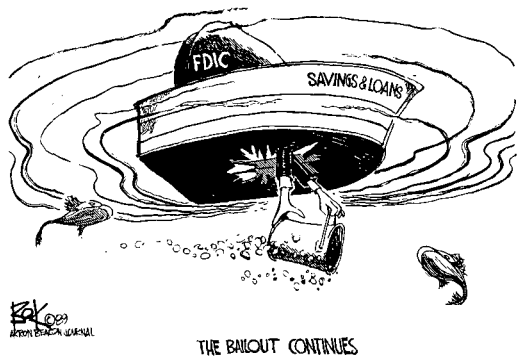
Contributing Editor Steven Hayward is director of the Claremont Institute's Golden State Project.

The Dukes of Moral Hazard

BY JOHN FUND

The Big Fix: How an Unholy Alliance of Politics and Money Destroyed America's Banking System, by James Ring Adams, New York: John Wiley and Sons, 308 pages, $19.95

It has often been said that the real scandal in Washington isn't what's illegal, but what *is* legal. Jim Wright resigned last year over a trivial junk book, while the House Ethics Committee overruled its outside counsel and cleared him of improperly intervening in the $400-billion S&L mess.



THE BAILOUT CONTINUES

A lot of people are trying to keep taxpayers from discovering who was largely responsible for the S&L crisis. (That crisis, it is now estimated, will cost the average American family at least $4,000.) "The point isn't whose responsibility it is," says M. Danny Wall, former staff director of the Senate Banking Committee and chairman of the Office of Thrift Supervision until he resigned under pressure last November. "That's all history."

There is more than enough blame to go around, and James Ring Adams has uncovered most of the villains in *The Big Fix: How an Unholy Alliance of Politics and Money Destroyed America's Banking System.* Adams, a former reporter for the *Wall Street Journal* and *Forbes*, spent three years looking under the carcasses of brain-dead thrifts to learn the reasons for the biggest financial scandal in U.S. history. He discovered that the thrift supervisors who were supposed to keep tabs on the federally insured S&L industry were woefully underpaid and often discouraged from aggressively challenging an institution's books.

Freed from regulatory requirements by a cooperative Congress but retaining the protection of taxpayer-provided deposit insurance, the industry began building risky asset portfolios that ranged from junk bonds to foreign-currency holdings and windmill farms. Treasury Secretary Don Regan had been cozy with the S&L owners for years and actually tried to fire Ed Gray, the top federal thrift regulator, when Gray began questioning the industry's soundness.

Adams fingers Congress, which chose both to ignore the mounting crisis and to follow the wishes of the thrift industry in deliberately delaying any solution, as the ultimate villain in the S&L mess. It may become the biggest stain on Congress's record since the Credit Mobilier railroad scandal of 1873 led to the defeat of a third of House incumbents.

Adams, the author of a previous book on the history of the tax revolt, traces the roots of the S&L crisis back to a single day: the early morning of March 5, 1980, when exhausted House and Senate conferees ended three days of negotiations on a key banking deregulation bill. The U.S. League of Savings Institutions wanted to raise the level of taxpayer-guaranteed federal deposit insurance. The Senate had voted to raise it to $50,000 an account from $40,000. The House hadn't acted, so at the last minute House Banking Committee Chairman Fernand St Germain, the recipient of lavish gifts from the league, pushed through a "compromise" of $100,000. "I'm told the conferees would have done anything to get out of that room," former Rep. Ron Paul (R-Tex.) has said.

The St Germain "compromise" allowed money brokers to bundle large deposits together in lots of $100,000 and chase the high interest rates offered by insolvent thrifts that were trying to stay open by expanding. Later, in 1982, St Germain and his Senate counterpart, Jake Garn of Utah, allowed thrifts to attempt to recoup the high interest rates they were paying by investing in such risky ventures as office buildings and sperm banks. With deposit insurance covering the questionable investments, the only loser would be the taxpayer.

California and Texas extended liberal investment standards to state-chartered thrifts, and soon a new breed of high-flying entrepreneurs had remodeled their S&Ls into veritable casinos in which risk-fraught loans and investments were made with the care of a dice throw. Small wonder that Franklin D. Roosevelt had opposed deposit insurance in 1933 because he feared it would eventually subsidize bad institutions.

Former Senate Banking Committee Chairman William Proxmire admitted in March that there is "no defense" for Congress's failure to curb the investments of the state-chartered thrifts that account for 80 percent of insolvent California and Texas S&Ls. Clearly, some members of Congress stalled not out of ignorance, but to protect local S&L interests.

The best-known congressional members of this S&L Appreciation Society are the notorious Keating Five. The Senate Ethics Committee is investigating their role in protecting Lincoln Savings & Loan, a financial black hole whose owner, Charles Keating, rang up losses that will cost the taxpayers some $2.5 billion.

The senators all say their actions were merely part of their "constituent service." Arizona Sen. John McCain, a Republican, has likened his intervention in an enforcement action by the federal regulators examining Lincoln to "helping the little lady who didn't get her Social Security." But Charles Keating was asking for a lot more than a lost check, and he was willing to pay. The evidence: the $1.3 million he funneled to the five

senators in contributions to their campaigns or causes.

The Big Fix points out that congressional interference on behalf of privileged interests goes far beyond the single case of Lincoln Savings. Rep. Jim Leach of Iowa, a Banking Committee member, says business-as-usual congressional pressure to withdraw or alter the regulations of independent agencies under the cover of "constituent service" has become an "absolute scandal."

Such outcomes are inevitable given the government's growing power to affect economic outcomes through subsidies, loans, trade protection, and entitlements. With a government as big as the one in Washington, the line between constituent service and influence peddling cannot help but be blurred. The S&L highflyers just happened to have the sharpest elbows, the largest campaign goody baskets, and a presence in every congressional district in the nation.

Many Americans have long known that much of what is entirely legal in today's Washington would be properly viewed as unethical by the vast majority of people beyond the Beltway. Until now they have largely accepted such behavior as part of the price of government. But because of deposit insurance this politics as usual will cost each and every American at least $1,000.

There's a chance voters may now start asking questions about what their elected representatives are actually doing in Washington. That's why columnist George Will has said the issues raised by the S&L scandal—the moral hazard of deposit insurance and the question of where "constituent service" ends and influence peddling begins—are "a fuse that has been lit that could blow this town sky high."

In providing a readable history of the S&L mess—history that Danny Wall and the Congress would like taxpayers to forget—Adams has made a real contribution to the American public's political education. The manipulation of government for private gain is an old story. But the breathtaking size and scope of the S&L rip-off makes it impossible to dismiss. If the public fails to act now in response to the danger signs posted throughout this book, it will only be asking for a repeat of the disaster.

John Fund is an editorial writer for the Wall Street Journal.

Cocaine Blues

BY TED GALEN CARPENTER

White Labyrinth: Cocaine and Political Power, by Rensselaer W. Lee III
New Brunswick, N.J.: Transaction Books, 256 pages, $29.95

Since President Richard M. Nixon first proclaimed America's war on drugs at the beginning of the 1970s, Washington has sought to enlist the drug-producing countries of Latin America in that crusade—with little success. The latest foray came in February at the so-called drug summit in Cartagena, Colombia, when President Bush met with the leaders of Colombia, Peru, and Bolivia. Bush pronounced that conclave a great success and asserted that the four leaders had formed the world's first "antidrug cartel" to battle the narcotics trade.

The Cartagena summit was actually little more than a public-relations extravaganza designed to convince an American public overwrought by lurid portrayals of the "drug menace" that the United States now had reliable allies to help wage the war. Beneath the diplomatic pabulum of the summit communiqué was the inescapable reality that the Andean countries and the Bush administration continued to pursue competing agendas.

Bush pressed his counterparts for a commitment to use their militaries against the cartels and to adopt more vigorous drug-crop eradication programs. They responded with vague, nonbinding promises. The Andean leaders sought to exploit Washington's eagerness for an escalated drug war to obtain multi-billion dollar developmental aid programs. Bush responded with promises that were equally vague and nonbinding.

Rensselaer Lee's *White Labyrinth: Cocaine and Political Power* offers crucial insights into why Washington's "supply-side" strategy in the drug war has been and will continue to be a fool's errand. Lee emphasizes that the drug trade—especially the cocaine sector—has become vital to the economies of the Andean countries. South American drug traffickers earn $5 billion to $6 billion annually. Although much of that money finds its way into offshore tax havens, more than $2 billion returns to the economies of Columbia, Peru, and Bolivia. Cocaine is now Colombia's second most valuable export (behind coffee), it may be Peru's most lucrative export, and it nearly equals the value of all of Bolivia's legal exports combined.

The economic importance of the drug trade is apparent in other ways. According to Lee, the various phases of the South American cocaine business create employment for 500,000 to 1 million workers. And this figure represents only direct employment; the industry generates substantial indirect employment in such sectors as real estate, construction, banking, and consumer goods. Lee concludes:

"Although an inefficient engine of economic growth, the cocaine industry serves as an important source of jobs, income and foreign exchange. The industry compensates for the failing of formal economies, especially in Peru and Bolivia. Powerful and politically articulate constituencies have developed around the cocaine industry in both its upstream (agricultural) and downstream (processing and distribution) phases."

The importance of the drug trade to the economies of the producing countries underscores the inherent futility of Washington's repeated attempts to entice, cajole, or coerce the indigenous

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governments into waging a vigorous campaign against the cartels. Asking the Andean governments to adopt such a course is roughly akin to pressuring Japan to eradicate its electronics industry. The State Department's annual narcotics control strategy report, released in March, confirms the ongoing failure of Washington's supply-side strategy: The amount of cocaine coming from the Andean region is at unprecedented levels.

Despite a record of futility extending over two decades, the Bush administration seems determined to escalate the drug war in Latin America. Most ominously, it is adding a new and dangerous component: an expanded role for the U.S. military.

It was indicative of the administration's growing obsession with drug trafficking as an alleged threat to national security that several spokesmen portrayed the invasion of Panama as a victory in the drug war. Even before that episode, Washington's actions pointed to the increased involvement of the military. The Andean Initiative, announced in September, included the dispatch of U.S. military advisers to assist the Andean governments. Two months later the Justice Department issued a ruling authorizing the military to apprehend suspected drug traffickers overseas even without the consent of the host governments.

In the heady aftermath of the Panama operation, the Pentagon proposed stationing an aircraft carrier group in the waters off Colombia to intercept drug shipments. Although it abandoned that scheme following an outcry not only in Colombia but throughout Latin America, the administration's handling of the proposal is symptomatic of its reckless prosecution of the drug war in the Western Hemisphere. Washington apparently did not even consult the Colombian government until planning for the blockade was in its final stages. Despite the longstanding antipathy of Latin American governments and populations to U.S. military intervention in the hemisphere, administration officials seemed surprised at the vehemently adverse reaction to the proposal.

U.S. insensitivity to Latin American concerns repeatedly surfaces in other phases of the drug war. Washington continues to pressure the Andean governments to adopt aggressive spraying programs to eradicate coca and marijuana crops, despite being rebuffed on numerous occasions. Similarly, the United States demands that the Colombian government extradite accused traffickers, even though the overwhelming majority of Colombians regard extradition as an affront to national sovereignty.

Washington is playing a dangerous game in attempting to conscript its hemispheric neighbors into waging the war on drugs. At the very least it will, as Lee suggests, "exacerbate tensions in U.S.-Latin American relations." Indeed, it may prove far more destructive. Colombia and Peru both harbor powerful left-wing insurgent movements that are adept at exploiting pervasive public opposition to drug eradication programs and portraying the incumbent governments as Yankee puppets.

Lee's refusal to embrace legalization should actually cause U.S. officials to take his warnings about the perils of Washington's Latin American drug war more seriously.

That is not to say that there exists a nefarious "narco-communist" alliance, as some right-wing elements in the United States have argued. Indeed, one major achievement of *White Labyrinth* is that it effectively debunks such simplistic conspiracy theories. Lee marshals considerable evidence to show that the narcotics traffickers and leftist guerrilla groups have a wary and sometimes even adversarial relationship. Nevertheless, by insisting that Latin American governments wage an unpopular war against entrenched political and economic constituencies, the Bush administration may undermine fragile democratic systems and inadvertently pave the way for the emergence of Leninist successor regimes.

White Labyrinth offers trenchant warnings for U.S. policymakers that the supply phase of the drug war is inherently unwinnable. Lee's exhaustive research and his familiarity with Latin American societies gives this account an especially high degree of credibility. The book is not without flaws. Lee sometimes exhibits an annoying tendency to draw back from the implications of his own analysis. Although he accurately summarizes the many arguments for the legalization of drugs, for example, he declines to endorse that strategy, opting instead for a vaguely defined "demand-reduction effort" that he concludes can achieve "much the same benefits as legalization."

Lee's refusal to embrace legalization, while dubious from the standpoint of logic and his own evidence, should actually cause U.S. officials to take his warnings about the perils of Washington's Latin American drug war more seriously. They cannot accuse him of harboring the hidden agenda of drug legalization. He reaches his conclusions about the failure of U.S. policy with considerable reluctance, but the evidence to support his pessimistic assessment is overwhelming. Washington is damaging its relations with its hemispheric neighbors and undermining fragile democratic governments to wage a crusade that cannot possibly be won.

Ted Galen Carpenter is the director of foreign policy studies at the Cato Institute.

Pricing the Priceless, by William D. Grampp, New York: Basic Books, 288 pages, $19.95. William D. Grampp's book on art, artists, and economics will probably offend virtually everyone. Artists, museum curators, and collectors will find his analysis disrespectful and obnoxious. He treats the art market like the markets for autos, perfume, and dishwasher soap. Economists, while more sympathetic, will be troubled by the occasional lapses in economic theory, which may simply be due to careless writing.

Critics of the attempt to clamp down

on the National Endowment for the Arts' funding of controversial exhibits should read this book. Grampp convincingly demolishes the main arguments for subsidizing the arts. But he does not address the reasons why artists themselves should oppose government involvement. Whatever the merits of a given project, political considerations inevitably play a role in funding decisions involving public money. So long as the government has to allocate funds among competing projects, there will be complaints that such decisions endanger artistic freedom.

Grampp argues that art is subsidized because artists, museum officials, executives of performing arts institutions, and government officials concerned with the arts lobby successfully for taxpayer support. Polls indicate that taxpayers do not favor subsidizing the arts, but they remain blissfully unaware of how politicians are spending their money. Subsidies for painters are identical in this respect to subsidies for tobacco farmers.

As Grampp reveals, patrons of the arts and especially of museums are mainly prosperous and highly educated, often with professional interests in painting. Teachers are over-represented. The concentration of theater in New York is at least partly explained by the concentration of the advertising and broadcast industries in that city. In other words, subsidies for painters, performers, and producers support the pleasures and professions of the upper middle classes.

Subsidies are often justified by arguments that the arts produce better citizens, create a more congenial environment, and provide benefits that extend beyond those who experience art directly. Grampp notes that there is no evidence, or any logical reason to believe, that visiting a gallery will make an individual a better citizen, provide benefits to those who do not frequent museums, or improve the social environment.

Subsidies do permit museums to be major buyers of art, which helps artists both directly and indirectly. (Having works exhibited in a prestigious gallery or bought by an influential collector enhances the value of an artist's other pieces.) Despite a strong role in the art market, museums, as nonprofit institutions, often fail to take good care of their collections (their capital) and typically warehouse more of their art than they exhibit.

On the basis of what museum officials say and do, Grampp deduces that they are indifferent to increasing attendance, improving revenue from admissions, or minimizing costs. They are usually motivated to please their peers in the museum world; to increase their unrestricted funds from gifts, donations, and subsidies; and to acquire more oils, lithographs, and watercolors, even though they cannot display all they possess. Although many museums never exhibit much of the work they own, they still oppose selling any of it.

Information about products, services, and conditions is valuable in any market, including the art trade. Intelligence about the painter, changes in the work, restoration, and previous owners is precious. With a few lively illustrations, Grampp shows that the value of a work depends crucially on its attribution. If pictures were valued simply by what is on the canvas, an excellent reproduction would be as valuable as the original.

It may come as a surprise to some, but artists are dedicated to enlarging their earnings, as this book demonstrates with a number of well-chosen examples. Painters depict those subjects which will sell best. Moreover, artists are not above attempting to monopolize the market. Guilds have often sought to restrict entry in order to preserve or enhance the prices of established artists' oils. The best-known example was the French Academy's refusal to show the work of the Impressionists. Like most cartels, this attempt to exclude newcomers failed.

This book is often fascinating. Unfortunately, it is occasionally marred by infelicitous writing, careless economics, and references that will be obscure to noneconomists. While the book is replete with relevant anecdotes, hard empirical data are largely drawn from other studies. Nevertheless, one hopes that *Pricing the Priceless* will prove so irritating that it will be widely read.

—Thomas Gale Moore

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RACISM, PRO AND CON

THOMAS W. HAZLETT

In Miami, an African-American commissioner named Miller Dawkins has shelved the nomination of a Harvard-educated lawyer, Mario Williams (nominated for a post on the Bayfront Park Management Trust). Why? "He's a Hispanic, he's not black," thunders Dawkins. (You figure it out.)

In Harlem, an 85-year-old black social worker has won widespread praise for her hard-hitting inner-city school programs by telling black students: "We didn't come here because we wanted to be here. We were happy in Africa. Get it straight. They do everything in the world to us to make it harder for black people. They're mean." The *New York Times*, noting that Mother Hale has been "honored by Presidents and Governors and Mayors," summarizes her self-help approach thus: "Beware of what crack and white people can do to you." (Good advice in any neighborhood.)

In California, the Rev. Jackson looks out on his audience of minority state legislators and speaks against a reapportionment-reform initiative directing retired judges to draw district boundaries, on the grounds that "there are no persons sitting here whose grandfathers are retired judges." How does he know?

Hey, call me naïve, call me irresponsible. But characterization of an entire race of folks on the basis of their pigmentation is...*progressive*? Where the hell did this double standard come from? Where it will lead, the esteemed Rep. Gus Savage already seems to know.

The Chicago Democrat gained fame last year as the author of one of the great lines in all of Gropedom, when he gravely notified a black Peace Corps-ette that, in deflecting his unwanted advances, she was in danger of becoming "a traitor to her race." That she pried herself free (enough to file criminal assault charges) in the face of such incredible wit and charm is no reflection in the slightest on the vast resourcefulness of this stud muffin from the second district of Illinois.

But at least the antics of the aptly labeled Mr. Savage manage to cross our social tripwires; both the law and Conventional Wisdom have been hostile to the congressman. Similarly for Louie Farrakhan's vicious Jew baiting. Yet this is a very high threshold, underneath which much racial loutishness traverses freely. And the double standard defines the terms. Whereas Campanis, Watt, and The Greek all ended up with quick trips to Bigots' Hell, and famous Harvard historians are sentenced to "sensitivity" reeducation camps for letting slip references to "American Indians" ("Native Americans," puh-leez), far bolder ethnic generalizers indulge their foibles freely.

Take Jesse Jackson, a man who is not afraid to define people by the richness of their tan. (This Jackson is amaaazing. He can tell your ancestors' job status just by the color of your skin.) Jesse's color-delineated (Rainbow Coalition) politics, his Hymietown slurs, his differential expectations for a black journalist vs. his white counterparts (revealed in his outrage that a black *Washington Post* reporter would dare breathe a word of the Hymietown rap to his readers), bring him no shame. Why? You see, Jesse's an angry black man, and while he may be a bit prejudicial, that's OK. He may be *technically* racist, but he's got one helluvan excuse (legacy of slavery, and all). So *super* technically he's entitled to a wider margin for error here than, say, Andy Rooney.

Now, that's racism squared.

The greatest single fuel rod propelling the civil rights movement, as Shelby Steele recently observed, was the powerful human impulse of fair dealing: Who could look at the cruelty of the crackers in Little Rock or Jackson or Selma and not be revolted by the ferocious unfairness of epidermal indictments? The sympathy so many white Americans felt in their gut was utterly nonracial; it was an instinctive brotherhood with an underdog getting the shaft. By locking onto the specifics of the black-white struggle—the *colors*—today's rhetoric often lets loose of the general *principle*: equality before the law. But that guiding vision, so marvelously embedded in our Constitution, and so nobly unearthed by the efforts of an American King, was the motive force both defining and driving civil rights.

Depreciating the full market value of the deeply compelling argument of simple human fairness—a bond across color lines—took much effort and many convolutions. It has not been easy to squander the moral advantage that the civil rights movement was handed by the likes of Lester Maddox, Bull Connor, and Gov. Faubus. But the socially accepted ideas that blacks—as a group—have views, that color determines politics, that "reverse discrimination" isn't as bad as other discrimination, that racism isn't racism if it's the right color of racism... That poisons a once-vast reservoir of good will with the toxic wastes of hypocrisy.

To say that our standards for public behavior cannot be colorblind due to past injustices is to give bitter legacies an eerie sort of life after death. More important, the underlying assumption of racial inequality (which oozes from the double standard) unilaterally disarms the fight for civil rights. Because there is an inescapable symmetry in justice. In fact, that's just what Lady Justice tries to show with those unbiased scales. Blindfolded, oblivious to all but the merits of the *individual* case, she makes law. But not even with her blinders on, Gus—don't even think about it.

Contributing editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis.

Austrian Economics
Center for the Study of Market Processes
George Mason University

Friedrich Hayek

The University. Located in Fairfax, Virginia just 15 miles from Washington, D.C., George Mason University is well positioned to influence political, cultural, and academic affairs. The university's rapid growth and influence led *Time* magazine (April 28, 1986) to include George Mason as one of nine "fast-rising and ambitious institutions that are now challenging the nation's elite schools." The university attracts a variety of well-known visiting economists, including Kenneth Boulding and James C. Miller III.

The Economics Department. The Economics Department houses the Center for Study of Public Choice and the Center for the Study of Market Processes. With such renowned economists as Nobel Laureate James Buchanan, Robert Tollison, Richard Wagner, and Walter Williams, the department is among the best known and most highly rated in the world. Combining rigorous training in neoclassical economics with innovative ideas in theory and policy, the economics department trains economists for positions in academia, government, and business. As a measure of the department's successes, the Spring 1989 *Journal of Economic Education* ranked the George Mason economics department eighth nationally in articles published per faculty member.

Center for the Study of Market Processes. Besides its students, the Center consists of faculty members Tyler Cowen, Jerome Ellig, Jack High, Don Lavoie, and Karen Vaughn. The Center emphasizes economics as a humane discipline with strong links to philosophy, history, political science, and law. Center faculty work on a variety of different topics, including the problem of rational economic calculation under socialism, the history of regulation, the evolution of financial institutions, the economics of antitrust and the theory of economic policy. Special attention is given to the Austrian school of economics; the department offers a one year graduate course and a specialized field of study in Austrian economics.

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Center students. The graduate students at George Mason are among the best and brightest in the country. More importantly, they are dedicated to scholarship, hard work, and helping each other. The result is an intellectual excitement among students that is often lacking in graduate education.

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For further information: Contact Dr. Jerome Ellig, Center for the Study of Market Processes, Department of Economics. George Mason University, 4400 University Drive, Fairfax, Virginia 22030, 703-323-3483. For a graduate catalog, include a $5.00 check payable to George Mason University.

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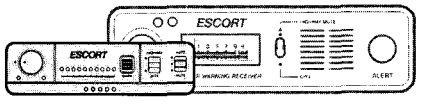

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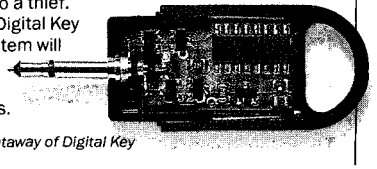

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